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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, A. D. 1890.

No. 58.

THE WESTERN ELECTRIC COMPANY,
Appellant,

vs.

HENRY J. REEDY.

BRIEF FOR APPELLANT.

GEORGE P. BARTON,
For Appellant.

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STATEMENT OF THE CASE.

The appellant, complainant in the court below, asks that the decree holding "that the complainant has a plain, ade-"quate and complete remedy at law, and that therefore this "suit should not be sustained" may be reversed. (Page 34 of printed record.)

This is a suit founded upon Letters Patent No. 172,993, granted Elisha Gray February 1, 1876, for electric annunciators for elevators, and No. 148,447, granted Augustus Hahl March 10, 1874, for electric indicators for elevators.

Both patents relate to the now well-known system of electric calls, used principally in passenger elevators. The pas-

senger at any floor, by pressing a key or push-button, may signal the attendant on the car while the car is in motion.

Gray, though the junior patentee, was first to accomplish the general result by what will be termed the "sliding or fric-"tional contact method," and after interference proceeding against Hahl, he, Gray, was given a claim which is not restricted to his particular mechanism.

It appears that Hahl, after Gray had reduced the frictional method to practice, devised another way of accomplishing the same general result. Hahl invented a flexible or folding cable of conductors for maintaining the circuits between the different floors and the annunciator upon the traveling car. This we will call the "flexible cable method."

Appellant owns both patents. Defendant is shown to have fitted up two elevators as specifically claimed in Hahl's first claim.

The claim of the Gray patent being broad and general in its scope, covers also the same mechanism, especially since Gray is shown to have been a pioneer.

Appellant asks, therefore, that the defendant may be held as an infringer of the Gray patent as well as of the first claim of the Hahl patent.

Errors Assigned.

1. The court erred in holding that complainant has "a "plain, adequate and complete remedy at law, and that there-"fore this suit should not be sustained."

2. The court erred in not sustaining the bill, and ordering an injunction and accounting against defendant for infringement of the Gray patent and the first claim of the Hahl patent.

Jurisdiction in Equity.

It may be proper to state historically that the question of jurisdiction was not raised or argued by counsel in the court below, and as no opinion was filed by the court, counsel does not know precisely the authorities or the facts in the record which the court held debarred this appellant from equitable relief.

The bill alleges that "defendant has infringed and still in-"fringes upon the exclusive rights and privileges secured to "your orator as aforesaid." (Page 6.)

Further the bill asks for an accounting against defendant for profits and damages; also for an injunction both perpetual and temporary. In short, the bill is in the usual form in patent suits and asks for the usual relief.

Jurisdiction in equity is conferred by statute, viz: Section 4,921 of Revised Statutes.

Prior to the statute of 1819 the Federal courts granted equitable relief whenever the citizenship of the parties permitted. The case of *Root* v. *Lake Shore and Michigan Southern Railroad Co.*, 105 U. S., 189, corrected an erroneous impression that had found judicial sanction as to the interpretation of the acts of 1819, 1836 and 1870, to the effect that a patentee had his choice of remedies as between law and equity—that is, the impression that if a patentee had a suit cognizable by a court of law, he could if he chose under the statute, no matter what the circumstances might be, maintain his bill in equity.

It is well settled that in patent cases equity cannot interfere where there is an adequate remedy at law.

It is equally well settled that whenever equitable jurisdic-

tion attaches, though upon very narrow grounds, the court will retain the bill. (See *Clark* v. *Wooster*, 119 U. S., 323.)

In this case the substantial relief sought was the injunction; the accounting was only incidental to this equitable relief.

Complainant might have waived its equitable remedy and sued at law, but it did not do so. The relief demanded was equitable relief.

As stated by Judge Thayer in *Wise* v. *Grand Avenue Ry. Co.*, 33 Fed. Rep., 278:

"But if the patent has not expired, and the patentee wishes to restrain acts of infringement, he may sue in equity for an injunction, and, as an incident to that form of relief, the court has power to decree an accounting as to profits realized by the defendant."

To the same effect is Judge Sawyer's decision in *Bragg* v. *City of Stockton*, 27 Fed. Rep., 510, and Judge Coxe's decision in *Kittle* v. *Rogers*, 33 Fed. Rep., 50. Judge COXE says:

"It is thought that the language there quoted from *Clark* v. *Wooster*, 119 U. S. 322, 7 Sup. Ct. Rep. 217, is sufficiently comprehensive to include a case where the objection disputing the jurisdiction of the court is taken at the earliest possible moment. Although the point was in that case first presented upon appeal, the decision is clearly to the effect that the trial court may retain jurisdiction, if, at the time the bill is filed, the complainant may obtain the equitable relief prayed for."

In the case of *Singer Mfg. Co.* v. *Wilson Sewing Machine Co.*, 38 Fed. Rep., 587, Judge BLODGETT says:

"As to the first point. This suit was commenced April 3, 1883. The patent did not expire until August 28, 1883, so that there was ample time under the equity rules of the United States courts to have put in an answer, taken the proofs, and brought the case to a final hearing during the life-time of the patent. In the light, therefore, of the decisions in *Sugar Co.* v. *Sugar Co.*, 21 Fed. Rep., 878; *Dick* v. *Struthers*, 25 Fed. Rep. 103; *Adams* v. *Iron Co.*, 34 O. G., 1045, 26 Fed. Rep. 324,—this is a proper case for equity jurisdiction."

Judge DEADY, in *Asbestine Tiling and Mfg. Co.* v. *Hepp et al.*, 39 Fed. Rep., 326, says:

"In the case under consideration, on the demurrer to the bill, the

plaintiff is entitled to an injunction against the continuance of the infringement by the city, and this gives this court, sitting as a court of equity, jurisdiction. Incidental to this, according to the rules of procedure in equity, and the express language of the statute, (Section 4921, Rev. St.,) the court may give the plaintiff further relief by way of the recovery of the profits made by the infringer or the damages sustained by the plaintiff."

The objection to the jurisdiction should be taken in proper time.

"If the objection of want of jurisdiction in equity is not taken in proper time, namely, before the defendant enters into his defense at large, the court, having the general jurisdiction, will exercise it."

Reynes v. *Dumont*, 130 U. S., 395.

See also cases there cited, also,

Kilbourn v. *Sunderland*, 130 U. S. 514.

These decisions reported as above are especially applicable to this cause which went to final hearing upon the pleadings and proofs, and the defendant in no way questioned the jurisdiction of the court.

Whether this suit is lacking in any of the elements contemplated by the statute as necessary to give the court jurisdiction can best be determined by considering all the pleadings and proofs. Therefore you are asked to consider (1) APPELLANT'S TITLE, (2) THE PATENTS SUED ON, AND (3) THE PROOFS OF INFRINGEMENT.

I. TITLE.

The patents sued on are: No. 172,993, granted February 1, 1876, to Elisha Gray, assignor to the Western Electric Manufacturing Company, for electric annunciators for elevators, and No. 148,447, granted Augustus Hahl, March 10, 1874, for electric indicators for elevators.

The "Gray Patent" (p. 26 of record) was issued to Western Electric Manufacturing Company. By assignment from Hahl (see Exhibit Hahl Agreement, page 31 of record) the Western Electric Manufacturing Company acquired the title to the Hahl patent. We quote from the assignment:

"First. The said Augustus Hahl, party of the first part, hereby sells, assigns and conveys to the said Western Electric Manufacturing Company, party of the third part, his, the said Hahl's, said invention of improvements in electric indicators for elevators and the letters patent therefor granted March 10th, 1874, No. 148,447; to hold to the said Western Electric Manufacturing Company and their successors to the full end of the term for which said letters patent were granted, with all re-issues thereof."

Appellant company, the Western Electric Company, was organized and succeeded to the business of the Western Electric Manufacturing Company about 1882. (See third answer witness E. M. Barton, p. 20.)

On the first day of August, 1882, the Western Electric Manufacturing Company transferred to appellant

—"the whole right, title and interest in and to said patents, and all profits, damages and causes of action which have accrued or arisen by reason of the infringement or infringements of any third party or parties heretofore of said patents or either of them."

(See Western Electric M'f'g Co. Agreement, p. 33.)

Thus the appellant became the owner of both patents August 1, 1882.

II. History of the Patents.

The Gray patent No. 172,993, though of later date than the Hahl No. 148,447, is as to priority of invention, first.

Witness E. M. Barton, pages 20 and 21, testifies as follows:

"Q. 5. What can you say of the history of these patents?

A. Mr. Elisha Gray, at that time my partner, in the latter part of the year 1870, began work in fitting up the passenger elevator of the old Palmer House, in Chicago, with electric calls. He spent a good

deal of time in studying how to overcome the difficulties, and used to go to the elevator and work at night during the hours when the elevator was still. After making a good many changes in the devices he got it completed and working successfully and satisfactorily in the spring of 1871. The proprietor of the hotel, Mr. W. P. F. Meserve told me at the time that he regarded the elevator calls as very important, inasmuch as they saved a good many useless trips of the elevator. He mentioned how much he estimated each trip of his elevator cost him for steam, but I have forgotten the sum that he named. Mr. Gray's United States patent, marked 'Complt's. Ex. Gray Patent, F. H. M., S. E.,' describes the apparatus which he put in at the old Palmer House, as I have just stated. The frictional or sliding contact method was used there, as described in Figs. 4, 5 and 6 of the Gray patent.

After the Chicago fire, in the fall of 1871, we did not have much work of this sort until the new buildings began to be finished, along in the fall of 1872. Mr. Gray then used the flexible-cable method of fitting up elevators. This method is shown in Figs. 1, 2 and 3 of his patent, and this method proved to be, on the whole, preferable.

The following winter he made application for this patent. The case was held up to await the result of an interference case then pending between Holmes, Corey, and Hahl. When that interference case was decided, which was about the winter of 1874, Gray's application being mislaid, as was stated by Examiner Z. F. Wilber, at the time, Hahl's patent was issued without being put in interference with Gray's pending application. Hahl's patent is 'Complainant's Exhibit Hahl Patent.' Hahl had been successful in the interference as against Holmes and Corey. Gray's application was put into interference with Hahl's patent. We became satisfied, however, that, while Gray fitted up the first successful system of elevator calls, Hahl had been the first to perfect the flexible-cable method of making connections. I had an interview with Hahl and his attorneys, at which these facts were conceded on both sides, and the interview resulted in Gray's conceding to Hahl priority as to the flexible-cable method specifically and in Hahl's conceding to Gray the general principle of elevator calls. Upon these concessions the Gray patent issued in its present form, and subsequently the Western Electric Manufacturing Company, having acquired the title to Hahl's patent, filed the disclaimer marked 'Complt's. Ex. Hahl Disclaimer, F. H. M., S. E.'"

The disclaimer filed in matter of Hahl patent Nov. 2, 1881, is printed page 29. The certificate that it is a copy is dated June 28, 1883. The date of filing the disclaimer appears correctly in the bill as November 2, 1881 (page 3, allegation 10). This allegation is denied only by the statement of the answer as follows:

"FIRST. That he has not any knowledge or information save by said bill, of any of the matters or things alleged in paragraphs 2 to 20, inclusive of said bill, and therefore he denies the same." (page 9.)

It is submitted that such a general denial in an answer should go for naught, and therefore that the date of November 2, 1881, is sufficiently proven. It is immaterial, however, which date is taken as correct.

This disclaimer struck out from the Hahl specification Fig. 3 of the drawing, and all that part of the specification and first claim relating to the friction or sliding contact method of maintaining the circuits between the floors of the building and the annunciator upon the traveling car.

Thus we have the first claim of the Hahl patent strictly limited to a combination containing the flexible cable as an element.

The Gray patent shows and describes both methods, and his claim is broad enough to cover either form of apparatus. That is, Gray first perfected the frictional contact method in the spring of 1871 and in the fall of 1872 he invented also the flexible cable method. Gray found, however, that he preceded Hahl only as to the frictional contact method, and that Hahl was entitled to priority of invention as to the specific flexible cable method. And they having filed concessions in accordance with the facts, the Gray patent issued with the broad or general claim.

Gray's specification reads:

"*To all whom it may concern:*

Be it known that I, ELISHA GRAY, of Chicago, in the county of Cook and State of Illinois, have invented a new, useful and Improved Electric Annunciator or indicator for freight and passenger elevators in hotels and other buildings, of which invention the following is a full, clear and exact description, which will enable others skilled in the art to which my invention appertains to make and use the same, reference being had to the accompanying drawings forming a part hereof, and in which—

Figure 1 represents a perspective view of an elevator, provided with an annunciator embodying my invention; Fig. 2, a horizontal section through one of the elevator-posts in the plane of the line *x x;* Fig. 3, a vertical section of the indicator; Figs. 4, 5 and 6, front, side and top views, respectively, of an electrical signaling apparatus and elevator, showing a modification of my invention, as represented in the figures preceding.

The object of my invention is to render an electric annunciator or indicator useful in connection with freight and passenger elevators in hotels and other buildings, so that the person having charge of the elevator may be called to each of the several floors of the building at any time by means of the annunciator, whatever may be the position of the elevator, and whether it is at rest or in motion; and my invention consists in providing the elevator with an electric annunciator or indicator, and in rendering the latter capable of accomplishing the objects above set forth.

In the drawing, A represents the car or platform of an elevator of the class referred to. B represents an ordinary annunciator, such as is employed in hotels for the purpose of indicating calls from the various rooms. The annunciator is arranged on the car or platform of the elevator, so that its announcements may be readily ascertained by the person having charge of the elevator. C C are posts or ways, along which the elevator rides. D is the battery. E is a flexible cable of insulated wires. The wires constituting the flexible cable are one more in number than the number of floors to be indicated by the annunciator, the extra wire being a battery wire. The cable is suspended from the highest floor reached by the elevator, and arranged near the elevator "well." The other end of the cable is attached to the elevator car or platform, and the cable is long enough to allow the elevator to descend to its lowest position in the building. Each of the cable wires, except the battery wire, is attached to one end of a corresponding magnet in the indicator, as represented in Fig. 3. The other ends of the magnets are attached to the battery-wire as represented at E'. F F are ordinary room-keys or circuit-closers, and each floor is provided with one of these keys, as shown in Fig. 1. G is the battery-wire. The course of the battery-wire is such that the keys F F, when depressed will be brought into contact with it, and it may terminate after reaching all the keys. The opposite end of the battery-wire is carried to the upper end of the cable continuous along the latter, and terminates in the annunciator, as shown in Fig. 3. Each cable-wire, except the battery-wire is attached to a corresponding key, F, as shown in Fig. 1.

The circuit is as follows: Passing along near the keys, F, F, to the battery, and through the latter along any suitable course to the upper part of the cable; from thence through the cable to one end of the magnets, and through the latter and a corresponding cable-wire to a corresponding key, F. This circuit is closed whenever one of the keys, F, F, is depressed, and the person in charge of the elevator is

thereby called to the floor on which the depressed key is arranged, and this call may be made at any time, whatever the position of the elevator may be, for reason that the circuit is not broken by the movement of the [illegible] owing to the flexibility of the cable through which the ci[illegible]pass.

In the mo[illegible] my invention, illustrated by Figs. 4, 5 and 6 of the drawing[illegible] l communication between the battery and annunciator wi[illegible]levator-car is maintained by means of a sliding connection, [illegible] of the folding one described above.

A series of wires, *z*, are suspended from the top and at one side of the elevator-well, which are retained in position and kept taut by weights, *b*, attached to their lower ends at the bottom of the well. Each one of these wires is connected at its lower end to one pole of the battery, B, as shown in Figs. 4 and 6. Another wire, *a'*, is arranged in the same series, but at its lower end is connected to the other pole of the battery, B. Upon the top of the car, A, are placed springs, *c*, which are rigidly attached to the car in any suitable manner, and carry upon their upper and free ends small metallic pulleys or rollers, *d*, arranged so that each one of these rollers will be in contact with one of the wires, *a*, *a'*. Each one of these metallic springs is also connected by wires, D, to a magnet in the annunciator. Signal-keys, F, are arranged upon each floor, as heretofore described, and from each key two wires are run, one connecting with the lower end of one of the wires, *a*, and the other connecting with the lower end of the wire, *a'*.

It will be seen from this description that so long as the pulleys, *d*, are in contact with the wires, *a*, *a'*, whenever one of the floor-keys, F, is depressed an electrical circuit is immediately formed, and a signal is produced at the annunciator within the car. The springs, *c*, are slightly compressed, so as to operate to keep the rollers, *d*, continually pressed against the wires, *a*, *a'*, as the car, A, moves up and down the well, and, therefore, at whatever point the car may be, upon depressing the signal-key on any floor an electrical circuit will be closed, and a signal given at the annunciator.

Having thus described my invention, what I claim as new, and desire to secure by Letters Patent, is:

The combination of a movable elevator-car, an annunciator attached thereto and moving therewith, circuit-closing or breaking signal-keys on different floors, respectively, of a building, and mechanism whereby an electric circuit is maintained between the signal-keys and the annunciator, without interruption by the movement of the car.

ELISHA GRAY."

The Hahl specification reads:

"*To all whom it may concern:*

Be it known that I, AUGUSTUS HAHL, of the city and county of Washington, in the District of Columbia, have invented an improved

Electrical Indicator for Elevators; and I do hereby declare the following to be a full, clear and exact description of the same, reference being had to the accompanying drawings forming part of this specification, in which:

Figure 1 is a perspective view, the floors and some of the timbers being shown in section. Figure 2 is a detached view of the weight employed for tightening the cable; [*and Fig. 3 is a front elevation, representing a modification of my apparatus.*]

Similar letters of reference in the accompanying drawings denote the same parts.

The elevators heretofore used in hotels and other buildings have been so constructed that, when the signal is sounded from any floor, the attendant, if in the car, cannot see the indicator without stepping out upon the floor.

My improvement consists in attaching the indicator to the wall of the car, where the attendant can at all times see it without leaving his place, and in connecting said indicator to the knobs on the different floors by means of suitable conductors, substantially as hereinafter described.

In the drawings, A is the wall of the building. B^1 B^2 B^3 B^4 are the different floors; d^1 d^2 d^3 d^4, knobs projecting from the wall above each floor, which, being drawn out, thrust in, or turned on their axis, complete or break the electrical or galvanic circuit, and thereby signal to the attendant to raise or lower the car to the floor from whence the signal is given. C, the car; E, the indicator; and *m m m m*, insulated strands connected to the indicating-plates *e e*, said strands being preferably wound into a cable at M. One end of the cable, being attached to the car, is movable, while the other, attached to the wall, is fixed. The slack of the cable may be allowed to hang loosely in the space between the car and the wall; or provision may be made for taking it up, as shown in Figs. 1 and 2, where the cable is represented as passing over a pulley *r*, attached to the wall, and then down under another pulley, *p*, secured to a weight, *w*, said last-mentioned pulley and weight being supported by the bight of the rope, as shown in the drawings.

[*Instead of this apparatus, the several knobs* d^1 d^2 d^3 d^4 *might be connected, by suitable conductors, to metallic strips n n n n, secured to the wall, as shown in Fig. 3, the several strands m m m m being each connected to a spring, s, supported upon the car, and sliding in contact with the strips, n, so as to make an electrical connection between each plate of the indicator E and its appropriate knob* d^1 d_4, *&c.*]

The indicating plate or face E is preferably constructed on the general principle of my electrical indicator patented February 28, 1871, No. 112,242, although any other form of apparatus may be employed without departing from the principle of this invention.

I prefer to place the cards or plates bearing the numbers of the floors behind the face of the box, and arrange openings in said face, so that, when the knob is pulled on any floor, the electric current

thereby sent will move the card numbered for that floor in front of the opening, and thereby show the number of the floor where the car is wanted.

The attendant, hearing the sound of the alarm bell, which is operated simultaneously with the movable card, has only to glance at the face of the box or case to see where his services are required. The apparatus can be easily adjusted so that the movement of the card No. 1 will cause the bell to strike once, while the movement of card No. 2 will cause it to strike twice, etc., thus indicating both to the eye and the ear the exact place where the car is wanted.

Having thus described my invention, what I claim is:

1. The circuit-making and breaking apparatus d^1 d^2, etc., and the connecting conductor M [*or n.*] in combination with an indicating apparatus, E, arranged upon the car so as to be movable therewith, substantially as and for the purpose as described.

2. The weight *w* and pulley *f*, in combination with the cable M of an electrical indicator for elevators, substantially as and for the purposes herein set forth.

AUG. HAHL."

The portions struck out by the Hahl disclaimer are printed above in italics and enclosed in brackets.

In Hahl's specification we find:

"The slack of the cable may be allowed to hang loosely in the space between the car and the wall."

Such is the specific arrangement that has generally been adopted, and which may be seen in the passenger elevator of any office building or hotel.

These patents were considered by Judge Blodgett in suit of *Western Electric Manufacturing Company* v. *Chicago Electric Manufacturing Company*, 14 Fed. Rep., p. 691.

III. INFRINGEMENT.

FREDERICK D. SCHOPPER testifies, pages 11 and 12, as follows:

"Q. 1. What is your age, residence and occupation?

A. My residence is in Camp Washington, in Cincinnati, Ohio; age, twenty-nine years; I am an electrician.

Q. 2. Please state whether you are acquainted with Henry J.

Reedy, one of the parties to this suit; and, if so, how long you have known him?

A. 2. I am acquainted with him. I have known him for about one year.

Q. 3. Please state whether you have ever fitted up elevators with electric annunciators for said Reedy?

A. 3. I have fitted up elevators with electric annunciators for Mr. Reedy.

Q. 4. When and where?

A. 4. I fitted up one at 4th and Vine and at 5th and Home streets, in this city. Both were fitted up prior to the first of November, 1884. I cannot now remember the exact dates.

Q. 5. Please describe the manner in which said annunciators were fitted up, having especial reference to the method of connecting the annunciators with the battery?

A. 5. Partly through stationary wires; the balance of the way by flexible cable.

Q. 6. Please describe the operation of said annunciators?

A. 6. One is the Utica make and the other is the Western Electric.

Q. 7. Please describe the manner in which the elevator car so fitted up could be summoned to any given floor?

A. 7. By the pressing upon a button a circuit is closed, which releases a catch by which the indicator swings around or forward.

Q. 8. Please state where the indicator is located, and also where the buttons are located?

A. 8. The indicator is located in the car, and the buttons are at each floor.

Q. 9. How many wires are used, and for what purpose?

A. 9. For a five-floored building we use seven wires, one wire running from the battery to the buttons, the balance to the instrument.

Q. 10. With what are the other ends of the respective wires connected?

A. 10. One from the battery and the other five from the different floors to the instrument.

Q. 11. You have accounted for six wires, five from the different floors to the instrument and one from the battery to the buttons. Where does the seventh run?

A. 11. From the other side of the battery to the instrument.

Q. 12. Who employed you to put in these annunciators and by whom, if anybody, were you paid?

A. 12. Mr. H. D. Reedy employed me, and I was paid by Mr. Reedy.

Q. 13. State, if you know, by whom the buildings in which the annunciators were placed are occupied?

A. 13. One is occupied by the Western Union Telegraph Company and the other by Lewis & Co., on Fifth street.

Q. 14. In reply to question 6 you say one is the Utica make and

the other is the Western Electric. Do you refer to the indicators alone, or to the method of connecting them with the battery?

A. 14. To the instruments alone.

Q. 15. Are these the only elevators you have fitted up for Mr. Reedy?

A. 15. Yes, sir."

Defendant HENRY J. REEDY testifies (page 14):

"Q. 1. What is your name, age, residence and occupation?

A. 1. My name is Henry J. Reedy; age, forty-four years; residence is 55 Ellen street; occupation, am manufacturer of elevators.

Q. 2. Are you the defendant in this suit?

A. 2. I believe I am.

Q. 3. Are you acquainted with Frederick D. Schopper?

A. 3. Yes, sir.

Q. 4. State whether or not you put an elevator provided with electric signals in the store of Louis & Co., 211 Fifth street, Cincinnati.

A. 4. I put up an elevator there, and Mr. Schopper put an electric bell.

Q. 5. Who paid Mr. Schopper for the electric bell?

A. 5. I paid him for it.

Q. 6. Who paid you for the whole job?

A. 6. The owner of the building, Mr. Wayne.

Q. 7. When was the work done?

A. 7. I can't give you the date; I don't remember. It must have been done eighteen months or so ago.

Q. 8. Describe briefly the electric calls.

A. 8. I don't know anything about them. I don't know how to describe them.

Q. 9. The annunciator is placed upon the car, is it not?

A. 9. Yes, sir.

Q. 10. A push-key is placed at each floor?

A. 10. I believe there is.

Q. 11. By pushing a key you can indicate upon the annunciator the floor where the elevator is wanted, can you not?

A. 11. I believe you can.

Q. 12. You can make this indication, can you not, when the car is in motion?

A. 12. Well, that is something I don't know; I never knew of it until this question was put to me now.

Cross-Examination by Edward Boyd, Esq.

C. Q. 13. How much did you pay Mr. Schopper for the electric signals you have mentioned?

A. 13. If I remember correctly it was $65.

C. Q. 14. What were the conditions under which he put in the signals?

A. 14. Well, he came to my shop or office and proposed to put me in electric call bells there that would not be an infringement on any patent.

C. Q. 15. Did he, under similar conditions, put on any other signals for you elsewhere?

A. 15. Yes; he put one on at the Western Union Telegraph office in this city, corner of 4th and Vine.

Re-direct Examination by Mr. Barton.

R. D. Q. 16. Did Mr. Schopper give you bond to protect you against any infringement suits or damages which might result from his work?

A. 16. He did not.

R. D. Q. 17. Is Mr. Schopper a man of considerable financial ability?

(Objected to as irrelevant.)

A. 17. I could not tell you, indeed. He appeared to me to be doing considerable business, but I don't know anything about him.

R. D. Q. 18. Do you not know him to be a man of small financial ability?

(Objection repeated.)

A. 18. I could not say. I never inquired anything about him."

JOHN YOUNG, an expert witness, testifies, pages 18 and 19, as follows:

"Q. 1. What is your name, age, residence and occupation?

A. 1. John Young; age, forty-five; residence, Chicago; occupation, I am in charge of the electric annunciator department of the Western Electric Company.

Q. 2. Give briefly your experience as an electrician?

A. 2. For the past fifteen years I have been engaged in the erection and placing of most all kinds of electrical apparatus. I have during that period made several inventions in electrical apparatus upon which I have taken out United States patents, and I have been called upon to testify as an expert in patent matters relating to electric calls.

Q. 3. Look upon Exhibits "Gray patent," "Hahl patent" and "Hahl Disclaimer," and state whether you have examined and understand the same.

A. 3. I have examined said exhibits, and think I understand them.

Q. 4. Please give your opinion as to the inventions covered by said patents.

A. —. The claim of the Gray patent is as follows:

'The combination of a movable elevator car, an annunciator attached thereto and moving therewith, circuit closing or breaking signal keys on different floors, respectively, of a building, and mechanism whereby an electric circuit is maintained between the signal keys and the annunciator, without interruption by the movement of the car.'

This claim covers broadly the system of electrical connection from the different floors of a building to a movable elevator cab. The patent shows two methods, one of which I term the frictional method, the other the flexible cable. The latter method is the one now generally in use, though the other one might be used successfully.

The Hahl patent, as modified by the disclaimer relates only to the flexible-cable method. The second claim, I am informed by counsel, is not involved in this suit. The first claim, taken in connection with the disclaimer, is as follows:

'The circuit-making and breaking apparatus d^1, d^2, &c., and the connecting conductor *m*, in combination with an indicating apparatus E, arranged upon the car so as to be movable therewith, substantially as and for the purpose specified.'

This claim I understand to cover the use of flexible cable suspended between the movable elevator cab and the wall, thus establishing electrical communication between the annunciator in the cab and the push-buttons on the different floors. The annunciator placed in the cab should have as many numbers or indications as there are floors in the building. The circuit is established by pressing on any one of the push-bottons, which operates a corresponding number in the annunciator, thus indicating to the attendant the particular floor from which the call is sent.

In my opinion, this claim of the Hahl patent covers any method or apparatus whereby electrical communication is established or maintained between the different floors of a building and the annunciator placed in a movable cab through the medium of a flexible cable.

Q. 5. I now call your attention to the testimony of Frederick D. Schopper, in this case, questions and answers three to eleven, inclusive, in which he testifies that he has fitted up elevators with electric annunciators for Mr. Reedy—one at Fourth street and Vine, and one at Fifth and Holmes streets; that the connections were made partly through stationary wires, the balance of the way through flexible cable; that the elevator car so fitted up could be summoned to any given floor by pressing upon a button, thus closing a circuit which releases a catch by which the indicator swings around or forward; that the indicator is located in the car, and the buttons are at each floor; that for a five-floored building he would use seven wires, one wire running from the battery to the buttons, the balance to the instrument. Have you read said questions and answers, and do you understand the apparatus which he describes?

A. I have, and I do.

Q. 6. I further call your attention to the testimony of defendant, Henry J. Reedy, questions and answers four to eleven, inclusive. Have you read said testimony, and do you understand the apparatus which he describes?

A. I have read the testimony and understand his description of the apparatus. Schopper and Reedy in their testimony describe the flexible cable method covered specifically by the first claim of the

Hahl patent; also covered in general terms by the claim of the Gray patent.

This system of communication with an elevator cab is in general use, and is almost indispensable in hotels and office buildings where frequent calls are made from the different floors.

Q. 7. What can you say as to the utility of electric annunciators for elevators?

A. Many trips of the elevator are saved, because the attendant can stop where he has landed a passenger, and remain until he is called to another floor."

ENOS M. BARTON testifies (page 21):

"The Gray patent, in my opinion, covers broadly the system of electrical calls between the different floors of a building and a movable car containing an annunciator, while the first claim of the Hahl patent, as modified by the disclaimer, covers the specific method of effecting these calls where a flexible cable is used.

Q. 6. Look upon Exhibit 'Hahl Agreement,' now shown you, and make any explanation thereof that you may consider desirable?

A. On the first page of the agreement the date mentioned for Gray's filing his application is written February 7, 1872. This is a clerical error. It should read February 3, 1873. This contract designed to convey to the Western Electric Manufacturing Company the whole title of the Hahl patent.

Q. 7. State whether the Western Electric Manufacturing Company and the Western Electric Company have complied with the terms of said contract?

A. They have complied with it. We have paid under the contract as royalty about $3,500. We have brought suits against infringers and have established the validity of the patents. In Vol. 14 of the Federal Reporter, page 691, is the decision of Judge Blodgett in regard to the Gray and Hahl patents. There have been a considerable number of other cases where suits were brought, and always decided in our favor.

I would mention a suit against Edwin Spear, in the Northern district of Illinois; a suit against Charles Heisler, in the Eastern district of Missouri; a suit against David Rousseau and others, one against A. G. Newman, one against J. H. Longstreet, all in the Southern district of New York; a suit against the American District Telegraph Company and McNamar, at Toledo, Ohio.

In all these suits injunctions were granted against the defendants and damages collected. Some other suits have been brought which have been settled and the infringement stopped without injunctions.

Q. 8. State what experience you have had in examining and construing letters patent of the United States?

A. For the past fifteen years I have almost daily given careful attention to examining the scope and value of United States patents. I

have carefully examined hundreds of patents, and have been called as a witness to give my opinion in regard to patents.

Q. 9. State whether or not you have read the testimony of John Young in this case, and the testimony of Frederick D. Schopper and Henry J. Reedy, referred to in the testimony of Young, and whether you understand the same?

A. I have, and I do.

Q. 10. Please give your opinion as to whether or not the apparatus described by Schopper and Reedy infringes upon the Gray and Hahl patents?

A. I think it infringes both of the patents—the first claim of the Gray patent and the first claim of the Hahl patent, as modified by the disclaimer. The apparatus is identically the same as that described in the Hahl patent and claimed in the first claim.

Q. 11. State whether or not Schopper or Reedy were licensed to do the work testified to by them under said patents, or either of them?

A. They were not."

Thus we have proof that defendant fitted up two elevators with the system of electric calls specifically covered by the first claim of the Hahl patent, and broadly covered by the claim of the Gray patent.

The patents are *prima facie* valid, and the presumption of their validity is strengthened (1) by extensive general use of the inventions (2), by tne fact that defendants have not been able to show a single reference against them, and (3) by numerous decisions of the Circuit courts, particularly that of Judge Blodgett, above cited, 14 Fed. Rep., page 691.

Nor has the Circuit court cast the least doubt upon their validity, the decree being placed entirely on other grounds. The fact of infringement is also clearly established, and not disputed. Appellant is therefore entitled to have the decree of the Circuit court reversed and the case remanded, unless the view that a court of equity has no jurisdiction of a case of this kind is to be sustained. But, the patents being in force, and no laches or other special circumstances being shown, this view cannot be sustained without overruling the doctrine of *Clark* v. *Wooster*, *Reynes* v. *Dumont*, and *Kilbourn* v. *Sunderland*, and the numerous recent Circuit court decisions above cited.

The language of Judge Brown in *Consolidated Roller Mill Co.* v. *Coombs*, 39 Fed. Rep., page 38, is specially applicable to this case. Judge BROWN says:

"If there be anything in defendant's point that plaintiff's remedy is at law, the objection comes too late to be of any service. If such want of jurisdiction appears upon the face of the bill it should be taken advantage of by demurrer, (*Clark* v. *Flint*, 22 Pick, 231; *Ludlow* v. *Simond*, 2 Caines, Cas. 40, 56; *Underhill* v. *Van Courtlandt*, 2 Johns. Ch. 369; *Pierpont* v. *Fowle*, 2 Woodb. & M., 35; *Grandin* v. *LeRoy*, 2 Paige, 509); if not, it should be set up by plea or answer, and called to the attention of the court at the earliest opportunity, (*Roberdeau* v. *Rous*, 1 Atk., 543; *Bank* v. *Railroad Co.*, 28 Vt., 470; *Livingston* v. *Livingston*, 4 Johns. Ch., 287.) The objection cannot be taken at the hearing. *Niles* v. *Williams*, 24 Conn., 279. It would be a great hardship in a case like this, where the parties have spent years of time and many thousands in money preparing for a hearing upon the merits, to deny the plaintiff relief upon the ground that it should have resorted to a court of law."

It is respectfully submitted that appellant is entitled to a decree for an injunction and an accounting as prayed.

GEORGE P. BARTON,
for Appellant.

Office Supreme Court U.
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JAMES H. McKENNEY
CLERK

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1890.

No. 58.

THE WESTERN ELECTRIC COMPANY,
Appellant,
v.
HENRY J. REEDY.

Reply to Brief for Appellee.

GEORGE P. BARTON,
For Appellant.

WASHINGTON:
GIBSON BROS., PRINTERS AND BOOKBINDERS.
1890.

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1890.

THE WESTERN ELECTRIC COMPANY,
APPELLANT,
v.
HENRY J. REEDY.

No. 58.

Reply to Brief for Appellee.

Four points are made for appellee as follows:

I. That the depositions of Schopper, Young, and Barton should be suppressed;

II. That complainant's title is defective;

III. That the patents are void upon their face; and

IV. That there was no infringement; or that in any event the defendant can be held to infringe but one of the two patents; and in conclusion it is contended that complainant is entitled to no equitable relief, because defendant employed Schopper to do the work.

Considering these propositions, advanced in behalf of appellee, in their order, I would call your attention—

First. To the motion to suppress the depositions, page 34 of the record.

1. The record does not show that the attention of the court below was called to this motion. It is simply a pleading appearing in the record upon which the court took no action; therefore this motion should be disregarded now as it appears to have been disregarded by the circuit court.

2. The deposition of Schopper was filed July 26, 1885, seven months prior to the filing of the motion to suppress. The depositions of Young and Barton were filed Nov. 12, 1885; that is, two months and eleven days before the motion was filed. The motion to suppress, therefore, was in any event filed too late. The motion was in fact filed on the morning of the day the case was argued on final hearing, and the court refused to consider the motion on the ground of laches. But this is not of record.

3. As to Schopper's deposition, the record shows, page 11, that it was had pursuant to the annexed notice. The certificate of the officer shows that, "At the request of counsel for complainant I adjourned the session to give further time for defendant to appear and cross-examine if he so desired." Undoubtedly, therefore, actual notice was given, but the officer accidentally omitted to append the notice to the deposition.

4. As to the depositions of Young and Barton, it is submitted that it was within the discretion of the Examiner to adjourn from day to day, as he did, until the witnesses could be produced; and that there is, therefore, no irregularity as to the depositions of Young and Barton.

Second. Appellant's title.

1. Appellant's title is shown by "Exhibit Hahl Agreement," page 31; "Exhibit Western Electric Manufacturing Company Agreement," page 33; and the testimony of E. M. Barton, page 20, as follows:

"About four years ago complainant company was organized and succeeded to the business of the Western Electric

Manufacturing Company." Thus it appears that appellant succeeded to the business of the Western Electric Manufacturing Company, "party of the third part" of the Hahl agreement; therefore appellant under section 3 (page 32) of said agreement, was entitled to take all the rights of the Western Electric Manufacturing Company; that is, appellant, the assignee of the Western Electric Manufacturing Company, was the successor in business of the Western Electric Manufacturing Company, and therefore was included in the last clause of said section 3 of the Hahl agreement.

2. No objection whatsoever was made in the court below to either the Hahl agreement or the Western Electric Manufacturing Company agreement, and an objection made here for the first time will not be considered.

3. Section 4898 of the Revised Statutes reads as follows:

"Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof."

The provision for recording the assignment was for the benefit of the ~~assignee~~ subsequent purchaser, and not for the benefit of infringers.

Third. The inventions patentable.

1. The proof is that Elisha Gray, in the latter part of 1870, began work fitting up the passenger elevator of the old Palmer House; that he spent a good deal of time in studying how to overcome the difficulties. He used to go

to the elevator and work at night, during the hours when the elevator was still ; and that after making a good many changes in the devices he got it completed and working successfully and satisfactorily in the spring of 1871.

This was the pioneer invention, and is referred to as the frictional or sliding-contact method. Later, in 1872, after the Chicago fire, Mr. Gray began to use the flexible-cable method. He appears to have been an original inventor of the flexible-cable method, as well as of the frictional method.

It appears from sheet 2 of the drawing of the Gray patent that J. M. Thacher was attorney for Elisha Gray. With all the facts before them, the counsel of Gray and Hahl entered into the agreement "Complainant's Exhibit Hahl Agreement."

Because Hahl had preceded Gray as to the flexible-cable method, Gray's assignee was constrained to enter into a contract to pay him $10 royalty upon each job, besides prosecuting and defending suits that might arise. Certainly, then, at that time it was thought that Hahl had done something.

Turning to his patent we find that he provides a way of disposing of the slack of the cable by means of a weight connected with pulleys. He undoubtedly thought such a contrivance desirable, although he states in his specification that the slack of the cable may be allowed to hang loosely in the space between the car and the wall.

His first claim, as modified by the disclaimer, is strictly limited to a combination containing the cable so disposed as an element. Admit that it was a narrow invention, yet the fact appears that he was the first to do it. Elisha Gray, eminent as an electrical inventor, required two years to arrive at the flexible-cable method.

2. The specification is addressed to those familiar with the art. It was not necessary for Hahl to describe the

circuits or source of current farther than he did. No one has seemed to find any difficulty in understanding the Hahl specification.

Page 25, line 15, he speaks of the "electrical or galvanic circuit." Hahl clearly shows how to dispose the conductors in the form of a cable in order that signals may be sent from the different floors of the building to the annunciator upon the car while the car is in motion. This was his invention; this is what he describes; and this is what he claims.

Fourth. We do not admit that the two mechanisms are, strictly speaking, the equivalents of one another. The same result is accomplished by either mechanism; but the flexible cable is a new specific element in the combination claimed in the first claim of Hahl. The claim of Gray covers the Hahl mechanism, but Gray would not have been entitled to use this specific improvement without the consent of Hahl.

If Gray's assignee had been advised to the contrary, surely it would not have entered into the Hahl agreement.

THE ANSWER INSUFFICIENT.

In conclusion I wish to call attention to the answer of defendant in this cause (page 8), and respectfully submit that the matters set forth in sections 2 to 20, inclusive, of the bill should be taken as true as against this defendant, notwithstanding defendant's general denial; otherwise a defendant might simply say "I deny the bill," and say no more.

Authorities upon this point will be found cited in "Robinson on Patents," in connection with sections 1115 to 1118, vol. 3, pages 446 to 454.

Respectfully submitted.

GEORGE P. BARTON,
Counsel for Appellant.

Supreme Court of the United States

OCTOBER TERM, 1889.

—No. 348.—

THE WESTERN ELECTRIC CO.

—*vs.*—

HENRY J. REEDY.

BRIEF FOR APPELLEE.

WOOD & BOYD,

OF COUNSEL.

C. Sower & Co., Printers, Cincinnati.

Supreme Court of the United States,

OCTOBER TERM, 1889.

No. 348.

THE WESTERN ELECTRIC CO.
—*vs.*—
HENRY J. REEDY.
In Equity.

BRIEF FOR APPELLEE.

STATEMENT.

This is an appeal from a decree entered by the Circuit Court of the United States for the Southern District of Ohio, in a suit in equity by the appellant for the alleged infringement of letters patent No. 148,447, issued by Augustus Hahl, March 10, 1874, and No. 172,993, issued to the Western Electric Manufacturing Company, as assignee of Elisha Gray, February 1, 1876, for improvements in electric annunciators for elevators.

The answer denies all the allegations of the bill. Issue was joined and proofs offered by complainant, but none by the defendant, who on February 23, 1886,

filed a motion to suppress all of complainant's depositions except that of the defendant (p. 34). The Circuit Court "being of the opinion that the complainant has a plain, adequate and complete remedy at law, and that therefore this suit should not be sustained," on October 8, 1886, entered a decree dismissing the bill (p. 34).

POINTS.

Motion to Suppress Complainant's Depositions.

The motion to suppress was well made. As appears by the orders of court appointing special examiners, and by their certificates, the depositions were to be taken under the 67th rule, and therefore a notice of the time and place of the examination was necessary.

In the case of the witness Schopper (p. 11), no notice was received, and none was filed with the deposition, notwithstanding the statement in the caption that the examination was "pursuant to the annexed notice," and no appearance was made for or by the defendant.

In the case of the witnesses Young and Barton, notice was duly given that the complainant would examine witness under the 67th rule in equity at Chicago on the 27th day of October, and that the examination would continue from day to day until completed (p. 16), but no witness was examined on that day, and nothing done except the offering of certified copies of the

patents sued on and a certified copy of a disclaimer. Adjournments were then made from day to day without the appearance of the defendant, and without anything further being done until the 31st day of October, when the examination of witnesses was commenced.

The taking of evidence by deposition being in derogation of the common law, the rules permitting it should be followed strictly. The 67th rule only provides for the taking of depositions. Documentary evidence is not a deposition, and there is no provision for its introduction except in the usual way.

The particular writings offered prove themselves, and it was not the identifying of them by the Examiner that introduced them in evidence, but the filing or production of them in court, which by the record seems to have been on February 12, 1886 (p. 23).

We concede that if a witness had been examined on the day for which the notice was given, that under the authority of Knode *v.* Williamson, 17 Wall., 586, the depositions subsequently taken would be regular, but under the facts of this case it is respectfully submitted that these three depositions were irregularly taken and should be suppressed.

II.

Complainant's Title Defective.

The answer denies the complainant's title, and the only proof offered in support of it is the two writings, pages 31 and 33. The first of these purports to be an assignment of the Hahl patent to The Western Electric Manufacturing Company, an Illinois corporation; and the second, an assignment from that company to the complainant of both patents. There is no proof of the execution of either instrument. The third paragraph of the first not only prohibits such a transfer as the second, but declares that such sale, if made, "shall be utterly void."

The first instrument (p. 31) bears a certificate of its having been recorded in the Patent Office, but this does not dispense with proof of execution, and is not such authentification as is contemplated by the act (R. S., § 892) making copies evidence. It may be said that the complainant could have secured a duly authenticated copy of the instrument recorded, and that it would have been competent *prima facie* evidence of the genuineness of the original, and absolute evidence of the correctness of the copy from the record, but it did not do this; and it is submitted that the statement of the witness Barton in answer 6, p. 21, that "this contract was designed to convey to The Western Electric Manufacturing Company the whole title of the Hahl

patent," if Barton's testimony is to be considered at all, is not such proof of execution as the law requires.

The second instrument (p. 33) does not seem to have been recorded, and is not so alleged in the bill, and there is no proof of any kind tending to show its genuineness.

Under the patent act of 1793 it was held that a suit founded on an unrecorded assignment could not be maintained.

Wyeth *v* Stone, 1 Story, 270, 295.

In several cases decided under the present law (R. S., § 4898), as enacted in 1836 and 1870, the question of recording has been considered, and the language of the courts would seem to import that, although an unrecorded assignment is not void, no suit can be maintained, and no recovery had, against any third party by virtue thereof, unless it be recorded before or pending the suit.

The precise question does not seem to have been squarely presented or necessarily determined in any case we have any knowledge of; but Mr. Curtis, in § 183 of his work on Patents, states the rule as follows: "As against third persons, a suit may be maintained in law or equity, by an assignee, provided he records his title at any time before the trial or hearing."

In conclusion of this point, we respectfully submit that the complainant's title is defective because there is no proof of the genuineness of the alleged assignments, and because the immediate assignment to it has not been recorded in the Patent Office, and that therefore it can not maintain this suit.

III.

The Contrivance Not Patentable.

This defense is not set up in the answer, but is made under authority of:

Brown *v.* Piper, 91 U. S., 37.
Slawson *v.* Railroad, 107 U. S., 652.

The patents are void on their face. Let us look at the Hahl one, which is the earlier of the two. In the introductory part of the specification, Hahl says he has "invented an improved electrical indicator for elevators." He then says: "The elevators heretofore used in hotels and other buildings have been so constructed that, when the signal is sounded from any floor, the attendant, if in the car, can not see the indicator without stepping out upon the floor;" but he does not show or describe any means for producing an electric current. It is therefore to be presumed that he proposed to employ a circuit, like that common at the time. He prefers to use an indicating plate constructed in accordance with a former patent of his, but says that any other

form may be used without departing from the principle of his invention. The conducting wires were old. At a certain point he prefers to have these wound into an ordinary cable, also old; but he does not limit the invention to the use of a cable.

Gray says in his specification that he uses "an ordinary annunciator, such as is employed in hotels for the purpose of indicating calls from the various rooms."

Thus the annunciator or indicator, the battery, the wires to form the circuit, and the keys or buttons to throw the line in and out of circuit, are admittedly just as they had long been used, and as the Court is doubtless familiar with and will take judicial notice of. But the indicating plate of this old system of calls from different floors of hotels was situated outside of the elevator car, and Hahl says his "improvement consists in attaching the indicator to the wall of the car, where the attendant can at all times see it without leaving his place, and in connecting said indicator to the knobs on the different floors by means of suitable conductors, substantially as hereinafter described;" but as we have shown his *suitable conductors* are the old well-known ones which had long been used for precisely the same purpose.

The invention then, if any there be, is narrowed down to a removal of the indicator from the outside of the elevator shaft to the inside of the car. The patent

does not inform us of the path of the conducting wires or cable of the indicating device the attendant had to leave his car to see, but the most natural location for them would be in the elevator shaft.

Suppose a person having an elevator with wires thus located wanted to turn the car into a stationary office or room for any purpose, and transferred to it his indicator and made the necessary connections, such change certainly would not involve invention. The operation and results would be precisely as before the change of position. If, while in this changed condition, instead of sending a boy up to answer a call, the elevator was moved up, would the arrangement become patentable?

It may be asked, Could this be done without further change? and the answer is that it obviously could if the wires all came from above the center of the height of the shaft, so that when the car ascended they would reach to the top; or if those starting from below that point had slack enough to reach to the top; and if not, all that would be necessary to do would be to lengthen them, which certainly would not be invention. It might as well be claimed to be invention for the man who first used the outside indicator to have had sufficient slack in his cable to allow him to move the indicator from place to place to suit his convenience or fancy. Everybody knows that an electric current is not affected by undulations of the cable. This knowl-

edge at least extends back to the laying of the early ocean cables, when electric communication was kept up with the land end while it was being laid. There is absolutely no new operation or result due to changing the location of the indicator, and for these reasons we submit that the Hahl patent is void; and if right in this, it requires no argument to show that the later one to Gray is void also.

IV.

Infringement.

Each of the patents sued on describes two equivalent methods of forming the electric circuit, which are substantially alike; and it is therefore submitted that both patents can not be valid, or if valid for limited claims, a device which only employs one of the methods can not infringe both.

Nothing is produced to show the arrangement complained of; and, if the deposition of Schopper, taken without notice, is not considered, there is no description of the system, and with or without his testimony no proof that signals could be transmitted or indicated while the car was in motion.

The defendant is a builder of elevators, but he does not make or put up electric indicators. He put an elevator in the Western Union Telegraph Co.'s building,

and another in a building owned by Mr. Wayne. He neither owns nor occupies either of these buildings, therefore no injunction could be granted against him to restrain the use of these particular elevators. He did not make or put in the particular indicators complained of, and there is no proof that he ever put in or intends to put in an electric signal of any kind; there could therefore be no injunction against future acts. The man who might be thus enjoined is the said Schopper, who put in the indicators under an agreement that the ones he would put in would not be an infringement of any patent (Q. 14, p. 15), or the owners and users of the elevators.

No ground for equitable relief is shown, and it not appearing that the complainant has not a plain, adequate and complete remedy at law, the bill was properly dismissed.

Root *v.* Railway Co., 105 U. S., 189.

For the above several reasons we respectfully submit that the decree should be affirmed, and the appeal dismissed with costs.

E. E. WOOD,
EDWARD BOYD,
Counsel for Appellee.

Cincinnati, March 18, 1890.

140-709
140-704

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 348. 58

THE WESTERN ELECTRIC COMPANY, APPELLANT,

vs.

HENRY J. REEDY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

FILED JULY 9, 1887.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 348.

THE WESTERN ELECTRIC COMPANY, APPELLANT,

vs.

HENRY J. REEDY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, FEBRUARY 17, 1890.

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1 At a stated term of the circuit court of the United States within and for the sixth judicial circuit and the western division of the southern division of Ohio, begun and held at the court-rooms, in the city of Cincinnati, in the said division and district aforesaid, on the first Tuesday in October, being also the fifth day of that month, in the year of our Lord one thousand eight hundred and eighty-six, and in the one hundred and eleventh year of the Independence of the United States of America—present, the Honorable George R. Sage, district judge—among the proceedings had were the following, to wit:

WESTERN ELECTRIC COMPANY
vs.
HENRY J. REEDY.
} In Equity. 3709.

Be it remembered that heretofore, to wit, on the 28th day of Nov., in the year of our Lord one thousand eight hundred and eighty-four, came the complainant-, by their solicitors, and filed in the clerk's office of said court their bill of complaint against the defendant herein. Said bill is in the words and figures following, to wit:

2 *Bill of Complaint.*

To the honorable the judges of the circuit court of the United States for the sixth circuit within and for the southern district of Ohio, in equity:

1. Western Electric Company, a corporation duly organized under the general laws of the State of Illinois and having its principal office for doing business at Chicago, Cook county, Illinois, brings this its bill against Henry J. Reedy, a citizen of the United States and a resident of Cincinnati, in the State of Ohio.

2. And thereupon your orator complains and says, upon information and belief, that heretofore and before the 10th day of March, A. D. 1874, Augustus Hahl, of Washington, in the District of Columbia, was the true, original, and first inventor or discoverer of a certain new and useful improvement in electric indicators for elevators, described and claimed in letters patent of the United States dated March 10, 1874, and numbered 148,447, next hereinafter mentioned, which was not known or used by others prior to his invention thereof and which was not and had not been at the time of his application for said letters patent in public use or on sale in this country for more than two years before his application for a patent therefor with his allowance and consent, contrary to the provisions of the statutes of the United States in such case made and provided.

3. And your orator further shows, upon information and belief, that, being such inventor, the said Augustus Hahl made due application in writing to the Commissioner of Patents of the United States for the granting of letters patent for said invention, and also duly complied in all other respects with all the necessary conditions and requirements of the statutes of the United States in such case

made and provided prior to the granting of the letters patent hereinafter mentioned.

4. And your orator further shows, upon like information and belief, that on the 10th day of March, 1874, letters patent of the United States, bearing date on that day, were issued to the said Augustus Hahl, according to law, whereby there was granted
3 to him, his heirs or assigns, for the term of seventeen years from the 10th day of March, 1874, the full and exclusive right to make, use, and vend the said invention throughout the United States and the territories thereof, as described and claimed in said letters patent, and by virtue thereof the said Hahl became and was the sole and exclusive owner of all the rights and privileges granted and secured, as by said letters patent, or a duly authenticated copy thereof, ready in court to be produced, will more fully and at large appear, a copy of the specification of which, with the drawings, is hereunto annexed and marked "Exhibit A."

5. And your orator further shows unto your honors, upon like information and belief, that in or about November, 1875, by an assignment in writing duly executed, the Western Electric Manufacturing Company, a corporation of Chicago, Illinois, became the owner of the entire and exclusive right, title, and interest in and to the said invention and the said letters patent granted therefor; that the said assignment was duly recorded in Liber Z 19, page 157, of the records of the Patent Office on the 29th day of November, 1875, as by said assignment, with a certificate of such recording, or a duly authenticated copy thereof, ready in court to be produced, will more fully and at large appear.

6. And your orator further complains and shows unto your honors, upon like information and belief, that heretofore and before the 1st day of February, A. D. 1876, Elisha Gray, of Chicago, in the county of Cook and State of Illinois, was the true, original, and first inventor or discoverer of a certain new and useful improvement in electric annunciators for elevators, described and claimed in letters patent of the United States dated February 1st, 1876, and numbered 172,993, hereinafter mentioned, which was not known or used by others prior to his said invention thereof and which was not and had not been at the time of his application for said letters patent in public use or on sale in this country for more than two years before his application for a patent therefor with his allowance and consent, contrary to the provisions of the statutes of the United States in such case made and provided.

7. And your orator further shows, upon like information and belief, that, being such inventor, the said Elisha Gray made due
4 application in writing to the Commissioner of Patents of the United States for the granting of letters patent for said invention, and also duly complied in all other respects with all the necessary conditions and requirements of the statutes of the United States in such case made and provided prior to the granting of the letters patent hereinafter mentioned.

8. And your orator further shows unto your honors, upon lik information and belief, that the said Elisha Gray, by an assignmen

in writing recorded in the Patent Office prior to the 1st day of February, 1876, transferred and set over to Western Electric Manufacturing Company all his right, title, and interest in and to the said invention.

9. And, upon information and belief, your orator further shows that on the 1st day of February, 1876, letters patent of the United States, bearing date on that day, were issued to the said Western Electric Manufacturing Company, as assignee of the said Elisha Gray, whereby there was granted to the said Western Electric Manufacturing Company, its successors or assigns, for the term of seventeen years from the first day of February, one thousand eight hundred and seventy-six, the full and exclusive right to make, use, and vend the said invention throughout the United States and the territories thereof, as described and claimed in said letters patent, and by virtue thereof the said Western Electric Manufacturing Company became and was the sole and exclusive owner of all the rights and privileges granted and secured by said letters patent, as by said letters patent, or a duly authenticated copy thereof, ready in court to be produced, will more fully and at large appear, a copy of the specification of which, with the drawings, is hereunto annexed and marked "Exhibit B."

10. And your orator further shows unto your honors, upon like information and belief, that the said Western Electric Manufacturing Company, as the assignee of the said Augustus Hahl, for good and lawful cause, did, on the second day of November, 1881, duly file in the Patent Office a disclaimer to the electric conductor shown in figure 3 of the said patent, No. 148,447, granted Augustus Hahl as aforesaid, said electric conductor being referred to in the specification and first claim of said patent by the letter "*n*," as by a duly authenticated copy of said disclaimer, here in court ready to be produced, will more fully and at large appear.

11. And your orator further shows unto your honors that on the first day of August, A. D. 1882, by virtue of an assignment in writing, here in court ready to be produced, your orator became the owner of all the right, title, and interest of the Western Electric Manufacturing Company in and to said patents, Nos. 148,447 and 172,993, and has become and now is entitled to recover all damages suffered by said former owner or owners of said patents and all profits made by said defendants since the granting of said patents respectively by reason of the use of said inventions and the infringement of said patents.

12. And your orator further shows unto your honors and alleges that the said improvements patented and claimed as aforesaid pertain to the same subject-matter and are adapted to be used together in a single elevator.

13. And your orator, ever since the titles to said patents were acquired by it as aforesaid, has been and now is entitled to all the rights, interests, and privileges thereby secured unto it, your orator, in and to the said inventions and discoveries in the said several letters patents shown and set forth, and has been and now is entitled to

the exclusive use of the said several inventions or improvements as aforesaid.

14. And your orator shows unto your honors that it is engaged in the manufacture and sale of electric indicators or annunciators for elevators described and patented in and by said several letters patent, and that it has facilities for supplying the public demand for the same; that it has been to very great expense in perfecting and introducing into public use said inventions, and that it is now under contract to pay a royalty upon each elevator provided by it with said electric indicators or annunciators, and has paid Augustus Hahl large sums under said contract.

15. And your orator further shows unto your honors that the said inventions or discoveries secured to your orator as aforesaid are of very great utility, and that the same have been extensively introduced into public use, and that the public have generally acquiesced in your orator's exclusive right to the same, and your orator, but for the wrongful acts of the said defendant and others acting in concert with him, would have secured large gains, profits, and advantages from the manufacture, use, and sale of the said inventions, and would now be enabled to use the said inventions to which — is entitled to the exclusive right as aforesaid with profit and advantage, but that by the said wrongful acts it is now prevented and hindered from so doing.

6

16. And your orator further shows unto your honors that said patents have been in controversy in the circuit court of the United States for the northern district of Illinois, in the circuit court of the United States for the eastern district of Missouri, and in the circuit court of the United States for the southern district of New York, in several suits in equity, in each of which Western Electric Manufacturing Company was complainant, and that in said suits the validity of said patents has been sustained.

17. That in one of said suits Edwin Spear was made defendant by a bill exhibited against him on or about July 14, 1876, in the United States circuit court for the northern district of Illinois; that said cause was brought to a hearing on or about the 18th day of January, 1878, before his honor Henry W. Blodgett, United States judge of said court, and that the equity of said cause was found for the complainant therein and a decree was entered therein on the said 18th day of January, 1878, whereby it was decreed that said several letters patent numbers 148,447 and 172,993 were good and valid, and that the Western Electric Manufacturing Company was vested with the exclusive right in and to the inventions therein claimed, and that the defendant, Edwin Spear, had infringed upon said exclusive right, and that a perpetual injunction should issue against said Spear.

18. That a suit was commenced on or about June 18, 1879, upon said patents in the circuit court of the United States for the eastern district of Missouri, in which Western Electric Manufacturing Company was complainant and Charles Heisler was defendant; that on or about June 20, 1879, a preliminary injunction was granted in said suit against said defendant Heisler; that on or about Septem-

ber 15th complainant's bill in said suit was taken as confessed and an accounting ordered before a master of said court; that
7 said Heisler appeared before said master in response to subpœna, and that thereupon it was agreed that complainant's damages should be assessed against said Heisler in the sum of seventy-five dollars; that subsequently, to wit, September 23, 1879, a final decree was entered in said cause perpetually restraining and enjoining said defendant Heisler from infringing said several patents and assessing the damages against said Heisler in the sum of seventy-five dollars, which sum was subsequently paid into court by said defendant.

19. And your orator further says that a suit was commenced in the circuit court of the United States for the southern district of New York on or about December 30, 1879, in which Western Electric Manufacturing Company was complainant and David Rousseau, Robert Edwards, and Abraham Galland were defendants; that said defendants filed their answers in said cause; that on or about January 8, 1881, by stipulation of counsel for the respective parties, a final decree was entered in said cause perpetually restraining said defendants and each of them from infringing upon complainant's rights under said patents and assessing damages against defendants Rousseau and Edwards in the sum of sixty dollars, as appears of record in said cause.

20. And your orator further shows unto your honors that on the 12th day of May, A. D. 1881, a suit was commenced by the Western Electric Manufacturing Company against the Chicago Electric Manufacturing Company in the circuit court of the United States for the northern district of Illinois upon said patents numbers 148,447 and 172,993; that on the second day of August, 1881, the Chicago Electric Manufacturing Company filed its answer in said cause denying the validity of said patents and its infringement thereof, in which answer the names of many witnesses were mentioned who were alleged to have knowledge of the use of said inventions prior to the inventions of said Hahl and Gray respectively, and that many patents were particularly mentioned which were alleged to contain and anticipate said inventions; that said suit was vigorously and ably contested by The Chicago Electric Manufacturing Company, defendant; that said suit was brought to final hearing upon the pleadings, depositions, and proofs of the said parties respectively at the October term of said court, A. D. 1882, before his
8 honor Henry W. Blodgett, United States judge of said court; that said cause was argued by counsel of the respective parties and taken under advisement by the court; that on the 26th day of December, 1882, an opinion was rendered by the court sustaining the validity of each of said patents, and thereupon a decree was entered in said cause in accordance with the opinion of the court, by which it was decreed that said patents were good and valid; that the defendant, The Chicago Electric Manufacturing Company, had infringed upon the exclusive rights of complainant in said suit under the Hahl patent, and a perpetual injunction, with reference to the master for an accounting, was ordered, and thereafter a final

decree was entered, whereby said complainant's damages were assessed against defendant in the sum of two hundred dollars, as by duly authenticated copies of said decrees, here in court and ready to be produced, will more fully and at large appear.

21. And your orator further shows unto your honors upon information and belief that the said defendant, well knowing the premises and the rights and privileges secured unto your orator, and in order to deprive it of the profits, benefits, and advantages which might and otherwise would have accrued to it, at Cincinnati, and within the said southern district of Ohio, and at other places within the United States and without license or permission of your orator, The Western Electric Company, the said defendant, Henry J. Reedy, since the first day of August, 1882, and prior thereto, since the date of said Hahl Patent and since November, 1875, and since February 1, 1876, and prior to the commencement of this suit, has unlawfully and wrongfully made or caused to be made, sold or caused to be sold, used or caused to be used, one or more electric indicators or annunciators for elevators containing substantially the said several inventions, discoveries, improvements, and combinations, or a material part thereof, as described and set forth and patented to Augustus Hahl by said letters patent No. 148,447, dated March 10, 1874, and letters patent granted to Elisha Gray, assignor to Western Electric Manufacturing Company, No. 172,993, dated February 1, 1876, and thereby defendant has infringed and still infringes upon the exclusive rights and privileges secured to your orator as aforesaid.

9 To the end, therefore, that the said defendant may, if he can, show cause why your orator shall not have the relief herein prayed, and may, but not upon oath, to the utmost of his knowledge, remembrance, information, and belief, full, true, and perfect answer make to all and singular the premises, and that he may be decreed to account for and pay over to your orator all gains and profits realized by him from the unlawful making, using, or selling of the improvements vested in your orator as aforesaid, and that your orator may recover, in addition thereto, the damages which your orator has sustained thereby, and that said defendant may be perpetually enjoined, by an injunction to be issued out of this honorable court, from making, using, or selling to others electric indicators or annunciators for elevators containing the inventions and improvements secured as aforesaid to your orator, and that your orator may have such other or further relief as equity may require and to your honors may seem meet—

22. May it please your honors to grant unto your orator a preliminary or temporary injunction, to be issued out of this honorable court, enjoining the said defendant, Henry J. Reedy, his agents, attorneys, employés, or servants, from making, using, or selling electric indicators or annunciators for elevators containing the inventions and improvements secured to your orator as aforesaid during the pendency of this suit.

23. May it please your honors to grant not only a writ of injunction conformable to the prayer of this bill, but also a writ of

subpœna directed to the said Henry J. Reedy, defendant, commanding him, at a certain time and under certain penalty, to appear before your honors in this court and then and there to answer unto this bill of complaint and abide by such order and decree herein as to to this court may seem required by the principles of equity and good conscience.

WESTERN ELECTRIC COMPANY,
By J. M. JACKSON, *Sec'y and Treas.*
Solicitor and of Counsel. [SEAL.]

GEORGE P. BARTON, *Of Counsel.*

10 UNITED STATES OF AMERICA, }
Northern District of Illinois, } ss:

On this 24th day of November, A. D. 1884, before me personally came the subscriber, J. M. Jackson, who, being by me duly sworn, on oath says that he is secretary and treasurer of the Western Electric Company, complainant; that he has read the foregoing bill of complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters and things which are therein stated to be upon information and belief, and as to those matters and things he believes it to be true.

WILLIAM S. GRANGER.
[SEAL.] *Notary Public.*

And afterwards, to wit, on the 28th day of Nov., A. D. 1884, there was issued out of the clerk's office of said court our certain subpœna, directed to the marshal of the district, and against the defendants herein. Said subpœna is in the words and figures following, to wit:

Subpœna.

UNITED STATES OF AMERICA, }
Southern District of Ohio, } ss:

The President of the United States of America to the marshal of the southern district of Ohio, Greeting:

You are hereby commanded to summon Henry J. Reedy, citizen of and resident in the State of Ohio, if he be found in your district, to be and appear in the circuit court of the United States for the southern district of Ohio aforesaid, at Cincinnati, on the first Monday in February next, to answer a certain bill in chancery
11 filed and exhibited in said court against him by Western Electric Company, corporation, citizen of and resident in the State of Illinois.

Hereof you are not to fail under the penalty of the law thence ensuing.

And have you then and there this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the United States, this twenty-eighth day of November, A. D. 1884, and in the 109 year of the Independence of the United States of America.

Attest: WM. C. HOWARD, *Clerk.* [SEAL.]

MEMORANDUM.—The said defendant is required to enter his appearance in this suit in the clerk's office of said court on or before the first Monday of January, 1885; otherwise the said bill may be taken *pro confesso*.

WM. C. HOWARD, *Clerk*.

Endorsed thereon: "Geo. N. Stone acknowledges himself security for all costs for which the plaintiff may be liable in this suit."

And afterwards, to wit, on the 29th day of November, A. D. 1884, came the marshal of the district, to whom the above subpœna was in form directed, and returned the same into the clerk's office of said court, with his proceedings endorsed thereon in the words and figures following, to wit:

Marshal's Return.

Received this writ at Cincinnati, O., Nov. 28th, 1884, and served the same in Cincinnati, Ohio, as follows, on the within-
12 named Henry J. Reedy by delivering a true copy hereof to him personally Nov. 28th, 1884, at 3.50 p. m.

LOT WRIGHT, *U. S. M.*,
By C. E. TWIFORD, *Deputy*.

Service	2 00
Copy	50
1 M. writ	06
	2 56

And afterwards, to wit, on the 16th day of January, A. D. 1885, the following appearance was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Appearance.

E. E. Wood. Edward Boyd.

Law office of Wood and Boyd, counselors in patent causes, S. E. cor. 4 and Main streets.

CINCINNATI, OHIO, *Jan'y* 16, 1885.

United States Circuit Court, Southern District of Ohio.

WESTERN ELECTRIC COMPANY
vs.
HENRY J. REEDY. } Equity. 3709.

The clerk will please enter our appearance as solicitors for the defendant.

Respectfully, WOOD AND BOYD.

R. B. Cowen, E'q. clerk.

And afterwards, to wit, on the 11th day of February, A. D. 1885, an entry was made upon the journal of said court, clothed in the words and figures following, to wit:

Journal W, 42. No. 3709.

Upon application of defendant it is ordered that the default herein be, and the same is hereby, set aside, and leave is granted the
13 defendant to file his answer herein forthwith, and the same is filed.

And afterwards, to wit, on the 11th day of Feb., A. D. 1885, the following answer is filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Answer.

In the Circuit Court of the United States for the Southern Division of Ohio.

WESTERN ELECTRIC CO.
vs.
HENRY J. REEDY. } In Equity. 3709.

The answer of Henry J. Reedy to the bill of complaint of the above-named complainant.

This defendant, for answer unto said bill of complaint, and not waiving any objection thereto, says:

1st. That he has not any knowledge or information, save by said bill, of any of the matters or things alleged in paragraphs 2 to 20, inclusive, of said bill, and therefore he denies the same.

2d. And as to the allegations contained in the 21st paragraph of said bill, the defendant denies that he has unlawfully and wrongfully made, or caused to be made, sold or caused to be sold, used or caused to be used, one or more electric indicators or annunciators for elevators containing substantially the said several inventions, discoveries improvements, and combinations, or a material part thereof, as described and set forth and patented to Augustus Hahl
14 by said letters patent No. 148,447, dated March 10, 1874, and letters patent granted to Elisha Gray, assignor to the Western Electric Manufacturing Company, No. 172,992, dated February 1, 1876, and he denies that he has in any way infringed either of said letters patent.

And the defendant denies all unlawful combination and confederacy wherewith he is charged in said bill.

Wherefore he prays to be hence dismissed with his reasonable costs and charges.

HENRY J. REEDY.

UNITED STATES OF AMERICA,
Southern District of Ohio, } *ss:*

Henry J. Reedy, the above-named defendant, being duly sworn, deposes and says that he has read the above answer signed by him, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

HENRY J. REEDY.

Sworn to before me and subscribed in my presence this 11th day of February, 1885.

[SEAL.] CHAS. B. WILBY,
Notary Public in and for Hamilton County, Ohio.

And afterwards, to wit, on the 21st day of February, A. D. 1885, the following replication was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Replication.

Circuit Court of the United States for the Southern District of Ohio.

WESTERN ELECTRIC COMPANY
vs.
HENRY J. REEDY. } In Equity. No. 3709.

The replication of the above-named complainant to the answer of the above-named defendant.

The repliant, saving and reserving to itself now and at all
15 times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of said answer, for replication thereunto says that it will aver, maintain, and prove its bill of complaint to be true, certain, and sufficient in law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by the repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things the repliant is and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by its said bill it has already prayed.

PARKINSON AND PARKINSON,
Solicitors for Complainant.

And afterwards, to wit, on the 25th day of April, A. D. 1885, an entry was made upon the journal of said court clothed in the words and figures following, to wit:

Journal W, 107.

No. 3709.

Upon motion of complainant it is ordered that Albert A. Castle, of Cincinnati, in said district, be, and he hereby is, appointed
16 special examiner — take evidence in the above cause under and in accordance with the 67th, rule in equity, and to report the same to the court.

And afterwards, to wit, on the 7th day of July, A. D. 1885, an entry was made upon the journal of the court aforesaid in this cause clothed in the words following, to wit.

Journal W, 148.

No. 3709.

Upon motion of complainant George S. Bailey, of Cincinnati, is appointed special examiner to take testimony herein, and complainant is allowed 30 days from date in which to take its evidence-in-chief.

And afterwards, to wit, on the 26th day of July, A. D. 1885, the following deposition was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Deposition of Frederick D. Schopper.

Circuit Court of the United States for the Southern District of Ohio

WESTERN ELECTRIC CO. vs. HENRY J. REEDY. } No. 3709. In Equity.

Examination of witnesses on behalf of the complainant under the 67th rule, in equity, as amended, pursuant to the annexed notice.

Present: George B. Parkinson, for the complainant, and no one appearing for the defendant.

By request of parties it is ordered that these depositions be taken by question and answer.

17 FREDERICK D. SCHOPPER, a witness produced on behalf of the complainant, being first duly sworn, deposeth and saith, in answer to interrogatories propounded to him by GEORGE B. PARKINSON, Esq., of counsel for the complainant, as follows:

(FREDERICK D. SCHOPPER, a witness for complainant, examined by GEO. B. PARKINSON:)

Q. 1. What is your age, residence, and occupation?

A. 1. My residence is in Camp Washington, in Cincinnati, Ohio; age, 29 years. I am an electrician.

Q. 2. Please state whether you are acquainted with Henry J. Reedy, one of the parties to this suit; and, if so, how long you have known him.

A. 2. I am acquainted with him. I have known him for about one year.

Q. 3. Please state whether you have ever fitted up elevators with electric annunciators for said Reedy.

A. 3. I have fitted up elevators with electric annunciators for Mr. Reedy.

Q. 4. When and where?

A. 4. I fitted up one at Fourth and Vine and at Fifth and Home streets, in this city. Both were fitted up prior to the first of November, 1884. I cannot now remember the exact dates.

Q. 5. Please describe the manner in which said annunciators were fitted up, having especial reference to the method of connecting the annunciators with the battery.

A. 5. Partly through stationary wires; the balance of the way by flexible cable.

Q. 6. Please describe the operation of said annunciators.

A. 6. One is the Utica make and the other is the Western Electric.

Q. 7. Please describe the manner in which the elevator car so fitted up could be summoned to any given floor.

A. 7. By the pressing upon a button a circuit is closed, which releases a catch by which the indicator swings around or forward.

Q. 8. Please state where the indicator is located, and also where the buttons are located.

A. 8. The indicator is located in the car and the buttons are at each floor.

Q. 9. How many wires are used and for what purpose?

A. 9. For a five-floored building we use seven wires, one wire running from the battery to the buttons, the balance to the instrument.

Q. 10. With what are the other ends of the respective wires connected?

A. 10. One from the battery and the other five from the different floors to the instrument.

Q. 11. You have accounted for six wires, five from the different floors to the instrument and one from the battery to the buttons. Where does the seventh run?

A. 11. From the other side of the battery to the instrument.

Q. 12. Who employed you to put in these annunciators and by whom, if anybody, were you paid?

18 A. 12. Mr. H. D. Reedy employed me and I was paid by Mr. Reedy.

Q. 13. State, if you know, by whom the buildings in which the annunciators were placed are occupied.

A. 13. One is occupied by the Western Union Telegraph Company and the other by Lewis & Co., on Fifth street.

Q. 14. In reply to question 6 you say one is the Utica make and the other is the Western Electric. Do you refer to the indicators alone or to the method of connecting them with the battery?

A. 14. To the instruments alone.

Q. 15. Are these the only elevators you have fitted up for Mr. Reedy?

A. 15. Yes, sir.

F. D. SCHOPPER.

UNITED STATES OF AMERICA, }
State of Ohio, Hamilton Co., } *ss:*

I, George S. Bailey, a notary public in and for the above-named county and State and a special examiner duly appointed by the

court in the cause named in the caption hereto attached and duly commissioned and qualified as said notary public, do hereby certify that on the day named in said caption I was attended, at the office of Parkinson and Parkinson, No. 75 West Fourth street, in Cincinnati, Ohio, by the counsel for complainant, George B. Parkinson, and by the witness aforesaid, Frederick D. Schopper. The said witness was first duly sworn and then examined, and that the deposition was reduced to writing by myself and read by the witness, and was by him subscribed in my presence.

19 I further certify that upon the completion of said deposition, at shortly after 12 o'clock noon, at the request of counsel for complainant, I adjourned the session to give further time for defendant to appear and cross-examine, if he so desired; but, defendant not having appeared by 3½ o'clock p. m., I adjourned the session *sine die*. I also certify that I am not of counsel or attorney or relative of any of the parties to this cause or otherwise interested in the event of this suit.

In testimony whereof I have hereunto set my hand and also my notarial seal this 16th day of July, A. D. 1885.

[SEAL.] GEORGE S. BAILY,
Special Examiner.

Cost bill:

Witness fee, Mr. Schopper	$1 50	paid.
Special examiner	5 00	
	$6 50	

Fees paid by George B. Parkinson.

And afterwards, to wit, on the 10th day of October, A. D. 1885, an entry was made upon the journal of said court in this cause clothed in the words and figures following, to wit:

Journal W, 199.

No. 3709.

Upon motion of complainant the time for taking testimony herein is extended 30 days from date, and F. H. McCulloch, of Chicago, Illinois, is appointed special examiner to take testimony in the northern district of Illinois.

20 And afterwards, to wit, on the 22nd day of Oct., A. D. 1885, the following deposition was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Deposition of Henry J. Reedy.

Circuit Court of the United States for the Southern District of Ohio.

THE WESTERN ELECTRIC COMPANY
vs.
HENRY J. REEDY.
} In Equity. 3709.

Examination of witnesses on behalf of the complainant under the 67th rule, in equity, as amended, pursuant to the annexed notice.

Present: George P. Barton, Esq., for the complainant, and Edward Boyd, Esq., for the defendant.

By request of parties it is ordered that these depositions be taken by question and answer.

HENRY J. REEDY, a witness produced on behalf of the complainant, being first duly sworn, deposeth and saith, in answer to interrogatories propounded to him by GEORGE P. BARTON, Esq., of counsel for the complainant, as follows:

(HENRY J. REEDY, a witness for complainant, examined by GEORGE P. BARTON:)

Q. 1. What is your name, age, residence, and occupation?

A. 1. My name is Henry J. Reedy; age, about forty-four years; residence is 55 Ellen street; occupation, am manufacturer of elevators.

Q. 2. Are you the defendant in this suit?

A. 2. I believe I am.

Q. 3. Are you acquainted with Frederick D. Schopper?

A. 3. Yes, sir.

Q. 4. State whether or not you put an elevator provided with electric signals in the store of Louis & Co., 211 Fifth street, Cincinnati.

A. 4. I put up an elevator there, and Mr. Schopper put an electric bell.

Q. 5. Who paid Mr. Schopper for the electric bell?

A. 5. I paid him for it.

Q. 6. Who paid you for the whole job?

A. 6. The owner of the building, Mr. Wayne.

Q. 7. When was the work done?

21 A. 7. I can't give you the date; I don't remember. It must have been done eighteen months or so ago.

Q. 8. Describe briefly the electric calls.

A. 8. I don't know anything about them. I don't know how to describe them.

Q. 9. The annunciator is placed upon the car, is it not?

A. 9. Yes, sir.

Q. 10. A push-key is placed at each floor?

A. 10. I believe there is.

Q. 11. By pushing a key you can indicate upon the annunciator the floor where the elevator is wanted, can you not?

A. 11. I believe you can.

Q. 12. You can make this indication, can you not, when the car is in motion?

A. 12. Well, that is something I don't know; I never knew of it until this question was put to me now.

Cross-examination by EDWARD BOYD, Esq.:

C. Q. 13. How much did you pay Mr. Schopper for the electric signals you have mentioned?

A. 13. If I remember correctly it was $65.

C. Q. 14. What were the conditions under which he put in the signals?

A. 14. Well, he came to my shop or office and proposed to put me in electric call-bells there that would not be an infringement on any patent.

C. Q. 15. Did he, under similar conditions, put on any other signals for you elsewhere?

A. 15. Yes; he put one on at the Western Union Telegraph office in this city, corner of 4th and Vine.

Redirect examination by Mr. BARTON:

R. D. Q. 16. Did Mr. Schopper give you bond to protect you against any infringement suits or damages which might result from his work?

A. 16. He did not.

22 R. D. Q. 17. Is Mr. Schopper a man of considerable financial ability?

(Objected to as irrelevant.)

A. 17. I could not tell you, indeed. He appeared to me to be doing considerable business, but I don't know anything about him.

R. D. Q. 18. Do you not know him to be a man of small financial ability?

(Objection repeated.)

A. 18. I could not say. I never inquired anything about him.

HENRY J. REEDY.

United States Circuit Court, Southern District of Ohio.

THE WESTERN ELECTRIC CO. *vs.* HENRY J. REEDY. } In Equity. 3709.

I, George S. Baily, a notary public in and for Hamilton county, Ohio, duly appointed special examiner by an order heretofore made in this action, do hereby certify that on the 20th day of October, 1885, A. D., I was attended, at the office of Parkinson & Parkinson, att'ys, in Pike's Opera House, No. 75 West Fourth street, Cincinnati, Ohio, by the counsel and witness there named in the annexed deposition, and the said witness was duly sworn and examined and his

deposition was reduced to writing by me and subscribed by said witness in my presence. I further certify that I am not of
23 counsel nor related in anywise to any of the parties in this suit, nor am I in anywise interested in the event of the same.

In witness whereof I have hereunto set my hand and notarial seal this 20th day of October, A. D. 1885.

GEORGE S. BAILY,
[SEAL.] *Special Examiner and Notary Public, Hamilton County, Ohio.*

Special examiner's fees, $4.00.
Paid by George B. Parkinson, Esq.

And afterwards, to wit, on the 12th day of Nov., A. D. 1885, the following deposition was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Deposition of Young & Barton.

Circuit Court of the United States for the Southern District of Ohio.

WESTERN ELECTRIC COMPANY
vs.
HENRY J. REEDY. } In Equity.

The defendant will take notice that the complainant will examine witnesses in the above-named cause under the 67th rule in equity, as amended, before F. H. McCullough, examiner, at the office of George P. Barton, room 24, 99 Randolph St., Chicago, Illinois, on Tuesday, the twenty-seventh day of October, 1885, beginning said examination at 10 o'clock a. m. of said day and continuing from day to day until completed.

GEORGE P. BARTON,
Solicitor for Complainant.

Received copy this — day of ——, 1885.
24
——— ———,
Solicitors for Defendant.

STATE OF OHIO, } *ss:*
County of Hamilton, }

On Friday, the twenty-third day October, 1885, I served the within notice on Wood & Boyd by leaving a copy of the same with Mr. Wood, of said firm, at their office, Carlisle building, Cincinnati, Ohio.

ARTHUR LE BOUTILLIER.

Subscribed and sworn to before me this 23rd day of October, 1885.
[SEAL.] ALBERT A. CASTLE,
Notary Public, Hamilton Co., O.

Circuit Court of the United States, Southern District of Ohio.

WESTERN ELECTRIC COMPANY
vs.
HENRY J. REEDY. } In Equity.

Examination of witnesses on behalf of the complainant, under the 67th rule in equity, as amended, before F. H. McCulloch, special examiner under said rule, at room 24, 99 Randolph street, Chicago, this 27th day of October, at ten o'clock in the forenoon, pursuant to the annexed notice, the time of said notice having been fixed by the special examiner.

Present: George P. Barton, for complainant. No appearance for defendant.

Counsel for complainant thereupon offers in evidence—

1. Certified copy of letters patent granted Western Electric Manufacturing Company, dated February 1, 1876, No. 172,993, for improvement in electric annunciators for elevators, and the same is marked "Compl't's. Ex. Gray Patent, F. H. M., S. E."

2. Certified copy of letters patent granted Augustus Hahl, dated March 10, 1874, No. 148,447, for improvement in electric indicators for elevators, and the same is marked "Compl't's Ex. Hahl Patent, F. H. M., S. E."

3. Certified copy of the disclaimer filed in matter of the
25 letters patent granted Augustus Hahl March 10, 1874, No. 148,447, for improvement in electric indicators for elevators, and the same is marked "Complainant's Exhibit Hahl Disclaimer, F. H. M., S. E," said exhibits to be produced at the hearing.

Adjourned until to-morrow at ten o'clock a. m.

F. H. McCULLOCH, *S. E.*

24–99 RANDOLPH ST., CHICAGO—10 a. m., *October* 28, 1885.

Met pursuant to adjournment.

Present: Counsel for complainant. No appearance for defendant.

Adjourned until to-morrow at ten o'clock a. m.

F. H. McCULLOCH, *S. E.*

24–99 RANDOLPH ST., CHICAGO—10 a. m., *Oct.* 29, 1885.

Met pursuant to adjournment.

Present: Counsel for complainant. No appearance for defendant.

Adjourned until to-morrow at ten o'clock a. m.

F. H. McCULLOCH, *S. E.*

24–99 RANDOLPH ST., CHICAGO—10 a. m., *October* 30, 1885.

Met pursuant to adjournment.

Present: Counsel for complainant. No appearance for defendant.

Adjourned until to-morrow at 2 p. m.

F. H. McCULLOCH, *S. E.*

26 24-99 RANDOLPH ST., CHICAGO,
2 P. M. *October* 31, 1885.

Met pursuant to adjournment.
Present: Counsel for complainant. No appearance for defendant.

JOHN YOUNG, the first witness, being duly sworn and examined on behalf of complainant, testifies as follows in answer to interrogatories propounded to him by counsel:

By Mr. BARTON:

Q. 1. What is your name, age, residence, and occupation?
A. 1. John Young; age, 45; residence, Chicago; occupation, I am in charge of the electric annunciator department of the Western Electric Company.
Q. 2. Give briefly your experience as an electrician.
A. 2. For the past fifteen years I have been engaged in the erection and placing of most all kinds of electrical apparatus. I have during that period made several inventions in electrical apparatus upon which I have taken out United States patents, and I have been called upon to testify as an expert in patent matters relating to electric calls.
Q. 3. Look upon Exhibits "Gray Patent," "Hahl Patent," and "Hahl Disclaimer," and state whether you have examined and understand the same.
A. 3. I have examined said exhibits and think I understand them.
Q. 4. Please give your opinion as to the inventions covered by said patents.
A. —. The claim of the Gray patent is as follows: "The combination of a movable elevator car, an annunciator attached thereto and moving therewith, circuit closing or breaking signal keys on different floors, respectively, of a building, and mechanism whereby an electric circuit is maintained between the signal keys and the annunciator, without interruption by the movement of the car." This claim covers broadly the system of electrical connection from the different floors of a building to a movable elevator cab. The
27 patent shows two methods, one of which I term the frictional method, the other the flexible cable. The latter method is the one now generally in use, though the other one might be used successfully. The Hahl patent, as modified by the disclaimer, relates only to the flexible cable method. The second claim, I am informed by counsel, is not involved in this suit. The first claim, taken in connection with the disclaimer, is as follows:

"The circuit making and breaking apparatus d^1 d^2, &c., and the connecting conductor m, in combination with an indicating apparatus, E, arranged upon the car so as to be movable therewith, substantially as and for the purpose specified."

This claim I understand to cover the use of flexible cable suspended between the movable elevator cab and the wall, thus establishing electrial communication between the annunciator in the cab and the push-buttons on the different floors. The annunciator

placed in the cab should have as many numbers or indicators as there are floors in the building. The circuit is established by pressing on any one of the push-buttons, which operates a corresponding number in the annunciator, thus indicating to the attendant the particular floor from which the call is sent.

In my opinion, this claim of the Hahl patent covers any method or apparatus whereby electrical communication is established or maintained between the different floors of a building and the annunciator placed in a movable cab through the medium of a flexible cable.

Q. 5. I now call your attention to the testimony of Frederick D. Schopper in this case, questions and answers three to eleven, inclusive, in which he testifies that he has fitted up elevators with electric annunciators for Mr. Reedy—one at Fourth street and Vine and one at Fifth and Holmes streets; that the connections were made partly through stationary wires, the balance of the way through flexible cable; that the elevator car so fitted up could be summoned to any given floor by pressing upon a button, thus closing a circuit which releases a catch by which the indicator swings around or forward; that the indicator is located in the car, and the buttons are at each floor; that for a five-floored building he would use
28 seven wires, one wire running from the battery to the buttons, the balance to the instrument. Have you read said questions and answers and do you understand the apparatus which he describes?

A. I have and I do.

Q. 6. I further call your attention to the testimony of defendant, Henry J. Reedy, questions and answers four to eleven, inclusive. Have you read said testimony and do you understand the apparatus which he describes?

A. I have read the testimony and understand his description of the apparatus. Schopper and Reedy in their testimony describe the flexible-cable method covered specifically by the first claim of the Hahl patent; also covered in general terms by the claim of the Gray patent.

This system of communication with an elevator cab is in general use and is almost indispensable in hotels and office buildings where frequent calls are made from the different floors.

Q. 7. What can you say as to the utility of electric annunciators for elevators?

A. Many trips of the elevator are saved, because the attendant can stop where he has landed a passenger and remain until he is called to another floor.

JOHN YOUNG.

Adjourned until Monday, November 2, at 2 p. m.

F. H. McCULLOCH, *S. E.*

24–99 RANDOLPH St., CHICAGO, *November* 2, 1885.

Met pursuant to adjournment.
Present: Counsel for complainant.
No appearance for defendant.

ENOS M. BARTON, produced on behalf of complainant, and being duly sworn, testifies, in answer to questions of counsel, as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Enos M. Barton; age, forty-two; residence, 2301 47th street, Chicago. I am vice-president of the complainant company.

Q. 2. State briefly your experience as an electrician.

29 A. For over thirty years I have been engaged in the business of handling electrical instruments or in that of manufacturing them.

Q. 3. Give an outline of your experience as a manufacturer.

A. My experience as a manufacturer began about the beginning of the year 1869. During that year I formed a partnership with Elisha Gray at Cleveland. Near the end of the year we arranged to move to Chicago, and were moved by the spring of 1870. Two years later the Western Electric Manufacturing Company was organized, taking over the business of our firm. I became an officer of that company at its organization and have continued my connection with it until the present time. About four years ago complainant company was organized and succeeded to the business of the Western Electric Manufacturing Company.

Q. 4. State whether you have examined and understand Exhibits "Gray Patent," "Hahl Patent," and "Hahl Disclaimer," now shown you.

A. I have examined them, and think I understand them pretty well.

Q. 5. What can you say of the history of these patents?

A. Mr. Elisha Gray, at that time my partner, in the latter part of the year 1870, began work in fitting up the passenger elevator of the old Palmer House, in Chicago, with electric calls. He spent a good deal of time in studying how to overcome the difficulties, and used to go to the elevator and work at night during the hours when the elevator was still. After making a good many changes in the devices he got it completed and working successfully and satisfactorily in the spring of 1871. The proprietor of the hotel, Mr. W. P. F. Meserve, told me at the time that he regarded the elevator calls as very important, inasmuch as they saved a good many useless trips of the elevator. He mentioned how much he estimated each trip of his elevator cost him for steam, but I have forgotten the sum that he named. Mr. Gray's United States patent, marked "Compl't's Ex. Gray Patent, F. H. M., S. E.," describes the apparatus which he put in at the old Palmer House, as I have just stated. The frictional or sliding contact method was used there, as described in Figs. 4, 5, and 6 of the Gray patent.

After the Chicago fire, in the fall of 1871, we did not have
30 much work of this sort until the new buildings began to be finished, along in the fall of 1872. Mr. Gray then used the

flexible-cable method of fitting up elevators. This method is shown in Figs. 1, 2, and 3 of his patent, and this method proved to be, on the whole, preferable.

The following winter he made application for this patent. The case was held up to await the result of an interference case then pending between Holmes, Corey, and Hahl. When that interference case was decided, which was about the winter of 1874, Gray's application being mislaid, as was stated by Examiner Z. F. Wilber, at the time, Hahl's patent was issued without being put in interference with Gray's pending application. Hahl's patent is "Complainant's Exhibit Hahl Patent." Hahl had been successful in the interference as against Holmes and Corey. Gray's application was put into interference with Hahl's patent. We became satisfied, however, that, while Gray fitted up the first successful system of elevator calls, Hahl had been the first to perfect the flexible-cable method of making connections. I had an interview with Hahl and his attorneys, at which these facts were conceded on both sides, and the interview resulted in Gray's conceding to Hahl priority as to the flexible-cable method specifically and in Hahl's conceding to Gray the general principle of elevator calls. Upon these concessions the Gray patent issued in its present form, and subsequently the Western Electric Manufacturing Company, having acquired the title to Hahl's patent, filed the disclaimer marked "Compl't's Ex. Hahl Disclaimer, F. H. M., S. E."

The Gray patent, in my opinion, covers broadly the system of electrical calls between the different floors of a building and a movable car containing an annunciator, while the first claim of the Hahl patent, as modified by the disclaimer, covers the specific method of effecting these calls where a flexible cable is used.

Counsel for complainant here offers in evidence two contracts, and the same are marked for identification "Compl't's Ex. Hahl Agreement, F. H. M., S. E.," and "Compl't's Ex. Western Electric M'f'g Co. Agreement, F. H. M., S. E.," said exhibits to be produced at the hearing.

Q. 6. Look upon Exhibit "Hahl Agreement," now shown you, and make any explanation thereof that you may consider desirable.

31 A. On the first page of the agreement the date mentioned for Gray's filing his application is written February 7, 1872. This is a clerical error. It should read February 3, 1873. This contract was designed to convey to the Western Electric Manufacturing Company the whole title of the Hahl patent.

Adjourned till to-morrow at two p. m.

F. H. McCULLOCH, *S. E.*

24–99 RANDOLPH ST., CHICAGO, *November* 3, 1885.

Met pursuant to adjournment.

Same appearance as yesterday.

Examination of ENOS M. BARTON continued:

Q. 7. State whether the Western Electric Manufacturing Company and the Western Electric Company have complied with the terms of said contract.

A. They have complied with it. We have paid under the contract as royalty about $3,500. We have brought suits against infringers and have established the validity of the patents. In vol. 14, of the Federal Reporter, page 691, is the decision of Judge Blodgett in regard to the Gray and Hahl patents. There have been a considerable number of other cases where suits were brought, and always decided in our favor.

I would mention a suit against Edwin Spear, in the northern district of Illinois; a suit against Charles Heisler, in the eastern district of Missouri; a suit against David Rousseau and others, one against A. G. Newman, one against J. H. Longstreet, all in the southern district of New York; a suit against the American District Telegraph Company and McNamar, at Toledo, Ohio.

In all these suits injunctions were granted against the defendants and damages collected. Some other suits have been brought which have been settled and the infringement stopped without injunctions.

Q. 8. State what experience you have had in examining and construing letters patent of the United States.

A. For the past fifteen years I have almost daily given careful attention to examining the scope and value of United States patents. I have carefully examined hundreds of patents, and have been called as a witness to give my opinion in regard to patents.

32 Q. 9. State whether or not you have read the testimony of John Young in this case and the testimony of Frederick D. Schopper and Henry J. Reedy, referred to in the testimony of Young, and whether you understand the same.

A. I have, and I do.

Q. 10. Please give your opinion as to whether or not the apparatus described by Schopper and Reedy infringes upon the Gray and Hahl patents.

A. I think it infringes both of the patents—the first claim of the Gray patent and the first claim of the Hahl patent, as modified by the disclaimer. The apparatus is identically the same as that described in the Hahl patent and claimed in the first claim.

Q. 11. State whether or not Schopper or Reedy were licensed to do the work testified to by them under said patents or either of them.

A. They were not.

ENOS M. BARTON.

STATE OF ILLINOIS, } ss:
County of Cook, }

I, F. H. McCulloch, a notary public in and for the county and State aforesaid, duly appointed special examiner under rule 67, in equity, do hereby certify that the foregoing depositions of John Young and Enos M. Barton were taken by and before me at the times and *to* the place therein specified; that before deposing the said witnesses were by me each duly sworn to tell the truth, the whole truth, and nothing but the truth in the cause aforesaid; that their depositions were reduced to writing by me from their several statements and the same duly subscribed by them: that
33 Complainants' Exhibits "Gray Patent," Hahl Patent," "Hahl Disclaimer," "Hahl Agreement," and "Western Electric M'f'g Co. Agreement" were introduced in evidence in said cause at the times therein mentioned; that complainant was present during the taking of the testimony by George P. Barton, Esq., its counsel, no one appearing for the defendant.

And I do further certify that I am neither attorney nor of counsel for any of the parties in said depositions or caption named and am in nowise interested in the result of said cause.

In testimony whereof I have hereunto set my hand and official seal this fourth day of November, A. D. 1885.

[SEAL.] F. H. McCULLOCH,
Special Examiner.

Fees:

Expenses of commission	$12 00
Witness fees	3 00
	$15 00

Paid by complainant.

And afterwards, to wit, on the 12 day of Feb., A. D. 1886, the following exhibit was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Hahl Patent.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the
34 records of *of* this office of the letters patent granted Augustus Hahl, dated March 10th, 1874, No. 148,447, for imp't in electric indicators for elevators.

In testimony whereof I, W. H. Doolittle, acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-second day of November, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first.

[SEAL.] W. H. DOOLITTLE,
Acting Commissioner.

No. 148,447.

The United States of America to all to whom these presents shall come:

Whereas Augustus Hahl, of Washington, District of Columbia, has presented to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in electric indicators for elevators, a description of which — a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, the said claimant
35 is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said Augustus Hahl, his heirs or assigns, for the term of seventeen years from the tenth day of March, one thousand eight hundred and seventy-four, the exclusive right to make, use, and vend the said invention throughout the United States and the territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this tenth day of March, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the United States of America the ninety-eighth.

B. R. COWEN,
[L. S.] *Acting Secretary of the Interior.*

Countersigned:
M. D. LEGGETT,
Commissioner of Patents.

37 UNITED STATES PATENT OFFICE.

AUGUSTUS HAHL, of Washington, District of Columbia.

Improvement in Electric Indicators for Elevators.

Specification forming part of Letters Patent No. 148,447, dated March 10, 1874; application Filed February 7, 1872.

To all whom it may concern:

Be it known that I, Augustus Hahl, of the city and county of Washington, in the District of Columbia, have invented an improved electrical indicator for elevators; and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawings forming part of this specification, in which—

(Here follows diagram marked p. 36.)

Figure 1 is a perspective view, the floors and some of the timbers being shown in section. Fig. 2 is a detached view of the weight employed for tightening the cable; and Fig. 3 is a front elevation, representing a modification of my apparatus.

A. HAHL.

Electric Indicators for Elevators.

No. 148,447. Patented March 10, 1874.

Fig. 1.

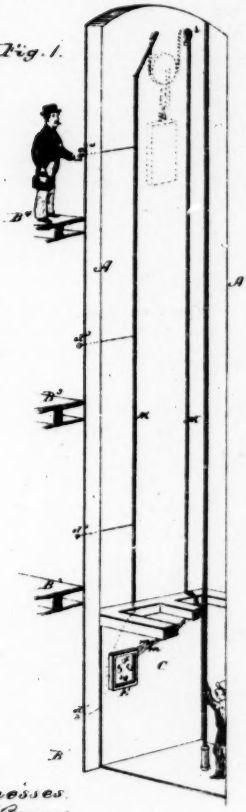
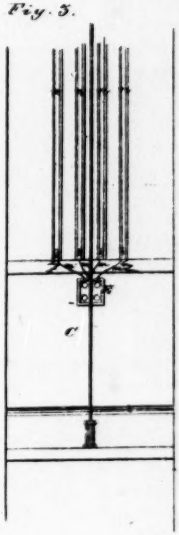


Fig. 2.



Fig. 3.



No. 348.
W. B. Le. a
Reedy.
p. 36.

Witnesses.
C. F. Burns.
De. K. Ellsworth

Inventor
Augustus Hahl
by their Attorneys
Dewey & Co.

Similar letters of reference in the accompanying drawings denote the same parts.

The elevators heretofore used in hotels and other buildings have been so constructed that, when the signal is sounded from any floor, the attendant, if in the car, cannot see the indicator without stepping out upon the floor.

My improvement consists in attaching the indicator to the wall of the car, where the attendant can at all times see it without leaving his place, and in connecting said indicator to the knobs on the different floors by means of suitable conductors, substantially as hereinafter described.

In the drawings, A is the wall of the building. B^1 B^2 B^3 B^4 are the different floors; d^1 d^2 d^3 d^4, knobs projecting from the wall above each floor, which, being drawn out, thrust in, or turned on their axis, complete or break the electrical or galvanic circuit, and thereby signal to the attendant to raise or lower the car to the floor whence the signal is given. C, the car; E, the indicator; and *m m m m*, insulated strands connected to the indicating-plates *e e*, said strands being preferably wound into a cable at M. One end of the cable, being attached to the car, is movable, while the other, attached to the wall, is fixed. The slack of the cable may be allowed to hang loosely in the space between the car and the wall; or provision may be made for taking it up, as shown in Figs. 1 and 2, where the cable is represented as passing over a pulley, *r*, attached to the wall, and then down under another pulley, *p*, secured to a weight, *w*, said last-mentioned pulley and weight being supported by the bight of the rope, as shown in the drawings.

Instead of this apparatus, the several knobs d^1 d^2 d^3 d^4 might be connected, by suitable conductors, to metallic strips *n n n n*, secured to the wall, as shown in Fig. 3, the several strands *m m m m* being each connected to a spring, *s*, supported upon the car, and sliding in contact with the strips *n*, so as to make an electrical connection between each plate of the indicator E and its appropriate knob d^1 d^4, &c.

The indicating plate or face E is preferably constructed on the general principle of my electrical indicator patented February 28, 1871, No. 112,242, although any other form of apparatus may be employed without departing from the principle of this invention.

I prefer to place the cards or plates bearing the numbers of the floors behind the face of the box, and arrange openings in said face, so that, when the knob is pulled on any floor, the electric current thereby sent will move the card numbered for that floor in front of the opening, and thereby show the number of the floor where the car is wanted.

The attendant hearing the sound of the alarm-bell, which is operated simultaneously with the movable card, has only to glance at the face of the box or case to see where his services are required. The apparatus can be easily adjusted so that the movement of the card numbered 1 will cause the bell to strike once, while the movement of card No. 2 will cause it to strike twice, &c., thus indicating both to the eye and the ear the exact place where the car is wanted.

Having thus described my invention, what I claim is—

1. The circuit making and breaking apparatus d^1 d^2, &c., and the connecting conductor M or n, in combination with an indicating apparatus, E, arranged upon the car so as to be movable therewith, substantially as and for the purpose as described.

2. The weight w and pulley p, in combination with the cable M of an electrical indicator for elevators, substantially as and for the purposes herein set forth.

AUG. HAHL.

Witnesses:
NATHAN K. ELLSWORTH.
L. HILL.

38 And afterwards, to wit, on the 12th day of February, A. D. 1886, the following exhibit was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Gray Patent.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted Western Electric Manufacturing Company, dated February 1st, 1876, No. 172,993, for imp't in electric annunciators for elevators.

In testimony whereof I, W. H. Doolittle, acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-second day of November, in the year of our Lord one thousand eight hundred and seventy-six and of the Independence of the United States the one hundred and first.

[SEAL.]

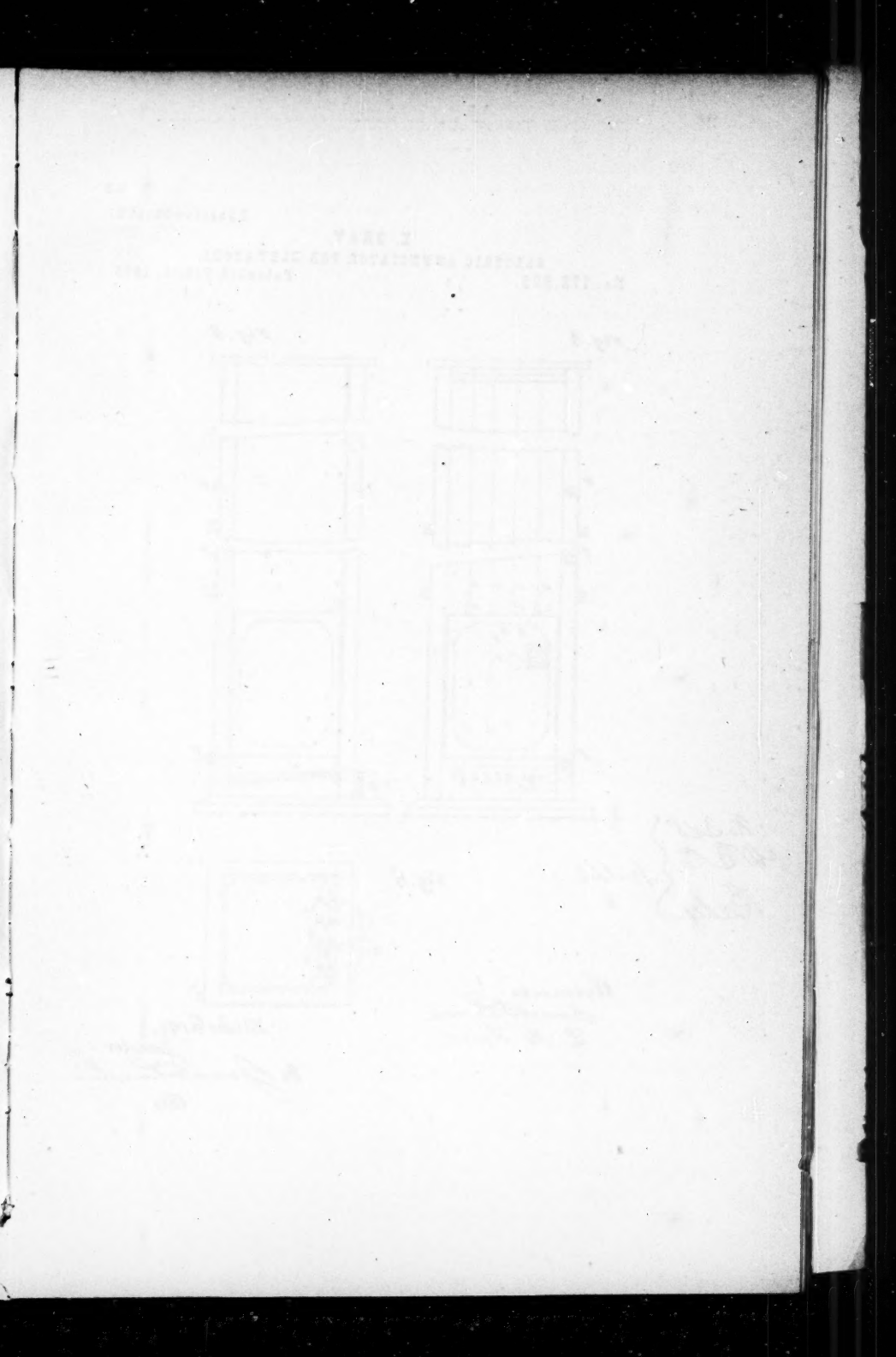
W. H. DOOLITTLE,
Acting Commissioner.

39 No. 172,993.

The United States of America to all to whom these presents shall come:

Whereas Elisha Gray, of Chicago, Ill., has presented to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in electric annunciators for elevators (he having assigned his right, title, and interest in said improvement to the Western Electric Manufacturing Company, of same place), a description of which invention is contained in the specification, of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, *by* the said claimant is adjudged to be justly entitled to a patent under the law:



2 Sheets—Sheet 2.

E. GRAY.

ELECTRIC ANNUNCIATOR FOR ELEVATORS.

No. 172,993. Patented Feb. 1, 1876.

Fig. 4.

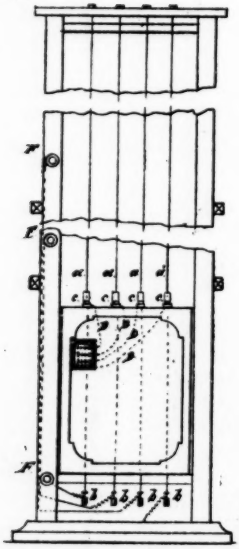
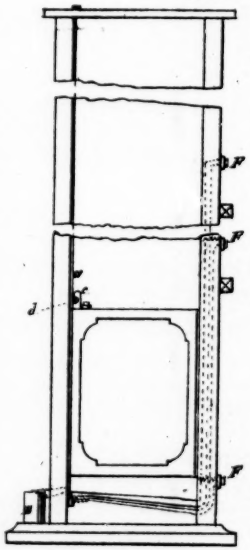
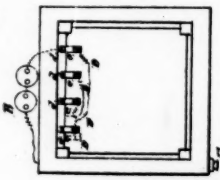


Fig. 5.



No. 348.
W & Co
Ready
Fig. 42

Fig. 6



Witnesses:
Heinrich Bruns
L. M. Harris

Elisha Gray,
Inventor.
By J. H. Peckham
Atty.

41

2 Sheets—Sheet 1.

E. GRAY.

ELECTRIC ANNUNCIATOR FOR ELEVATORS.

No. 172,993. Patented Feb. 1, 1876.

No. 348.
W. & Co.
p. 41
Reedy

Fig. 1.

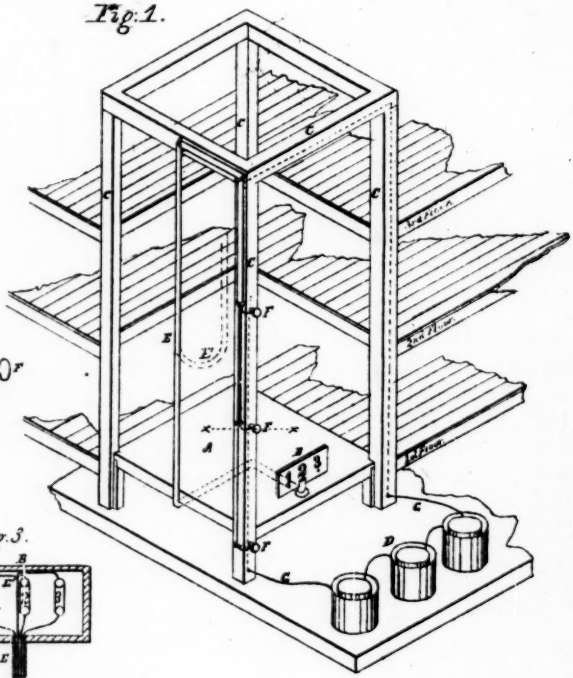
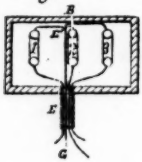


Fig. 2.



Fig. 3.



WITNESSES.

Henry Holz
Jas. McDonall

INVENTOR.

Elisha Gray.

Now, therefore, these letters patent are to grant unto the said Western Electric Manufacturing Company, its successors or assigns, for the term of seventeen years from the first day of February, one thousand eight hundred and seventy-six, the exclusive right to make, use, and vend the said invention throughout the United States and the territories thereof.

40 In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, the first day of February, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States of America the one hundredth.

B. R. COWEN,

[L. S.] *Acting Secretary of the Interior.*

Countersigned:

R. H. DUELL,

Commissioner of Patents.

43 UNITED STATES PATENT OFFICE.

ELISHA GRAY, of Chicago, Illinois, assignor to the Western Electric Manufacturing Company, of same place.

Improvement in Electric Annunciators for Elevators.

Specification forming part of Letters Patent No. 172,993, dated February 1, 1876; application filed February 3, 1873.

To all whom it may concern:

Be it known that I, Elisha Gray, of Chicago, in the county of Cook and State of Illinois, have invented a new, useful, and improved electric annunciator or indicator for freight and passenger elevators in hotels and other buildings, of which invention the following is a full, clear, and exact description, which will enable others skilled in the art to which my invention appertains to make and use the same, reference being had to the accompanying drawings forming a part hereof, and in which--

(Here follow diagrams marked pp. 41 & 42.)

Figure 1 represents a perspective view of an elevator provided with an annunciator embodying my invention; Fig. 2, a horizontal section through one of the elevator-posts in the plane of the line *x x*; Fig. 3, a vertical section of the indicator; Figs. 4, 5, and 6, front, side, and top views, respectively, of an electrical signaling apparatus and elevator, showing a modification of my invention, as represented in the figures preceding.

The object of my invention is to render an electric annunciator or indicator useful in connection with freight and passenger elevators in hotels and other buildings, so that the person having charge of the elevator may be called to each of the several floors of the building at any time by means of the annunciator, whatever may be the

position of the elevator and whether it is at rest or in motion; and my invention consists in providing the elevator with an electric annunciator or indicator and in rendering the latter capable of accomplishing the objects above set forth.

In the drawing, A represents the car or platform of an elevator of the class referred to. B represents an ordinary annunciator, such as is employed in hotels for the purpose of indicating calls from the various rooms. The annunciator is arranged on the car or platform of the elevator, so that its announcements may be readily ascertained by the person having charge of the elevator. C C are posts or ways, along which the elevator rides. D is the battery. E is a flexible cable of insulated wires. The wires constituting the flexible cable are one more in number than the number of floors to be indicated by the annunciator, the extra wire being a battery-wire. The cable is suspended from the highest floor reached by the elevator and arranged near the elevator-"well." The other end of the cable is attached to the elevator car or platform, and the cable is long enough to allow the elevator to descend to its lowest position in the building. Each of the cable-wires, except the battery-wire, is attached to one end of a corresponding magnet in the indicator, as represented in Fig. 3. The other ends of the magnets are attached to the battery-wire, as represented at E'. F F are ordinary room-keys or circuit-closers, and each floor is provided with one of these keys, as shown in Fig. 1. G is the battery-wire. The course of the battery-wire is such that the keys F F, when depressed, will be brought into contact with it and it may terminate after reaching all the keys. The opposite end of the battery-wire is carried to the upper end of the cable, continues along the latter, and terminates in the annunciator, as shown in Fig. 3. Each cable-wire, except the battery-wire, is attached to a corresponding key, F, as shown in Fig. 1.

The circuit is as follows: Passing along near the keys F F to the battery and through the latter along any suitable course to the upper part of the cable; from thence through the cable to one end of the magnets and through the latter and a corresponding cable-wire to a corresponding key, F. This circuit is closed whenever one of the keys F F is depressed, and the person in charge of the elevator is thereby called to the floor on which the depressed key is arranged, and this call may be made at any time, whatever the position of the elevator may be, for reason that the circuit is not broken by the movement of the elevator, owing to the flexibility of the cable through which the circuit-wires pass.

In the modification of my invention, illustrated by Figs. 4, 5, and 6 of the drawings, electrical communication between the battery and annunciator within the elevator-car is maintained by means of a sliding connection instead of the folding one described above.

A series of wires, *a*, are suspended from the top and at one side of the elevator-well, which are retained in position and kept
44 taut by weight *b*, attached to their lower ends at the bottom of the well. Each one of these wires is connected at its lower end to one pole of the battery B, as shown in Figs. 4 and 6. Another wire, *a'*, is arranged in the same series, but at is lower end is con-

nected to the pole of the battery B. Upon the top of the car *a* are placed springs *c*, which are rigidly attached to the car in any suitable manner, and carry upon their upper and free ends small metallic pulleys or rollers *d*, arranged so that each one of these rollers will be in contact with one of the wires *a a'*. Each one of these metallic springs is also connected by wires D to a magnet in the annunciator. Signal-keys F are arranged upon each floor, as heretofore described, and from each key two wires are run, one connecting with the lower end of one of the wires *a*, and the other connecting with the lower end of the wire *a'*.

It will be seen from this description that so long as the pulleys *d* are in contact with the wires *a a'*, whenever one of the floor-keys F, is depressed an electrical circuit is immediately formed, and a signal is produced at the annunciator within the car.

The springs *c* are slightly compressed, so as to operate to keep the roller *d*, continually pressed against the wires *a a'*, as the car
45 A moves up and down the well, and therefore at whatever point the car may be upon depressing the signal-key on any floor an electrical circuit will be closed and a signal given at the annunciator.

Having thus described my invention, what I claim as new and desire to secure by letters patent is—

The combination of a movable elevator-car, an annunciator attached thereto and moving therewith, circuit closing or breaking signal-keys on different floors, respectively, of a building, and mechanism whereby an electric circuit is maintained between the signal-keys and the annunciator without interruption by the movement of the car.

ELISHA GRAY.

Witnesses:
FR. HANSEN.
D. A. SHEPARD.

46 And afterwards, to wit, on the 12th day of Feb, A. D. 1886, the following exhibit was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

EXHIBIT HAHL DISCLAIMER.

COMPLAINANT'S EXHIBIT HALL DISCLAIMER. F. H. M., S. E.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the disclaimer filed in the matter of the letters patent granted Augustus Hahl March 10, 1874, number 148,447, for improvement in electric indicators for elevators.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this 28th day

of June, in the year of our Lord one thousand eight hundred and eighty-three, and of the Independence of the United States the one hundred and seventh.

E. M. MARBLE,
Commissioner.

To the Commissioner of Patents:

Your petitioner, The Western Electric Manufacturing Company, a corporation organized under the laws of the State of Illinois and having its principal office for doing business at 220 Kinzie street, Chicago, Illinois, respectfully represents that in the matter of a certain improvement in electric indicators for elevators, for which letters patent of the United States No. 148,447 were granted to Augustus Hahl on the tenth day of March, 1874, your petitioner is the sole assignee, as set forth in the assignment recorded in Liber Z^{19}, page 157, of the records of the Patent Office, and that your petitioner has reason to believe that, through inadvertence, accident, or mistake, the specification and first claim of said letters patent are too broad, including that of which said patentee was not the first inventor. Your petitioner, therefore, hereby enters its disclaimer to the electric conductor shown in Fig. 3 of the drawing and described in the specification as a modification of said Hahl's apparatus in the following language:

"And Fig. 3 is a front elevation, representing a modification of my apparatus."

"Instead of this apparatus, the several knobs d^1 d^2 d^3 d^4 might be connected by suitable conductors to metallic strips n n n n, secured to the wall, as shown in Fig. 3, the several strands m m m m being each connected to a spring, s, supported upon the car and sliding in contact with the strips n, so as to make an electrical connection between each plate of the indicator E and its appropriate knobs d^1 d^4, &c."

And your petitioner disclaims that portion of the first claim of said patent which is in the following words, to wit: "Or n."

WESTERN ELECTRIC M'F'G CO.
E. M. BARTON, *Vice-Pres't.*

Attest:
[SEAL.] S. G. LYNCH, *Sec't.*

Ex'd: H. M. H.; E. M. M.

Witness:
CHAS. A. BROWN.

47 And afterwards, to wit, on the 12th day of Feb., A. D. 1886, the following exhibit was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Exhibit Hahl Agreement.

Complainant's Exhibit Hahl Agreement. F. H. M., S. E.

Received for record November 29th, 1875, and recorded in Liber Z^{19}, page 157, of Transfers of Patents.

In testimony whereof I have caused the seal of the Patent Office to be hereunto affixed.

[SEAL.] ELLIS SPEAR,
Acting Commissioner.

Ex'd: M. A. L.

Articles of agreement, made this 1st day of ——, A. D. 1875, by and between Augustus Hahl, of Washington, D. C., party of the first part; Augustus Hahl and D. J. Gibbon, of Washington, D. C., and A. R. Keefer, of Harrisburg, Pa., copartners doing business at said Washington, D. C., under the firm name of Hahl, Gibbon & Co., party of the second part, and the Western Electric Manufacturing Company, a corporation duly organized under the laws of the State of Illinois and doing business in the city of Chicago, Illinois, of the third part, witness:

That the said Augustus Hahl being the owner of certain improvements in electric indicators for elevators and of the letters patent of the United States granted to him therefor March 10, 1874, and numbered 148,447, and the said Western Electric Manufacturing Company being the owner by assignment of certain improvements in electric indicators for elevators invented by Elisha Gray, of said Chicago, for which said Gray filed an application for letters patent of the United States February 7th, 1872, and the owners of the letters patent to be granted on said Gray's said application, and the said Hahl, Gibbon & Co. having a license to use said Hahl's patent aforesaid by virtue of their copartnership agreement and association, and the said parties of the first, second, and third parts being desirous of uniting the said patents and operating them for their mutual benefit and advantage, now, therefore, said first, second, and third parties hereto mutually agree as follows, viz:

First. The said Augustus Hahl, party of the first part, hereby
48 sells, assigns, and conveys to the said Western Electric Manufacturing Company, party of the third part, his, the said Hahl's, said invention of improvements in electric indicators for elevators and the letters patent therefor granted March 10th, 1874, No. 148,447; to hold to the said Western Electric Manufacturing Company and their successors to the full end of the term for which said letters patent were granted, with all reissues thereof. The consideration for this sale and assignment is the agreements on the part of the said Western Electric Manufacturing Company hereinafter set forth and the contract of copartnership between the members of the firm of Hahl, Gibbon & Co. hereinbefore referred to.

Secondly. The said Western Electric Manufacturing Company, party of the third part, agrees to use and manage the said inven-

tions of Gray and Hahl and the said letters patent granted and to be granted thereon for the mutual benefit of the parties of the second and third part hereto as follows, viz:

1. The party of the third part agrees to use all reasonable efforts and diligence to collect from all persons heretofore or hereafter infringing either or both of said patents damages for all such infringements, and to bring suits if necessary to establish the validity of the patents, to collect such damages, and to prevent future infringements, and shall defend all suits that may be brought for infringement of other patents by the manufacture, sale, or use of said inventions, all which shall be done at the expense and cost of the party of the third part alone. The party of the third part may license others to make, use, and sell the inventions for a reasonable royalty. All sums collected from others by way of suits or by licenses the party of the third part shall appropriate as follows, viz: First, to the payment of the costs and the necessary expenses of all suits brought or defended as aforesaid, the balance to be divided between the party of the second part and the party of the third part in the proportion of one-quarter to the former and three-quarters to the latter.

2. The parties of the first and second parts shall not license others to make, use, or sell the said inventions or either of them, but both the parties of the second and the third parts may make, use, and sell the inventions or either of them in their own shops,
49 and, having made the necessary apparatus in their own shops, may put them up in elevators anywhere in the United States, and to any extent, but the party of the third part shall, for every such apparatus made, used, or sold by them as aforesaid, pay ten dollars to the party of the second part, and the party of the second part shall, for every such apparatus made, used, or sold by them as aforesaid, pay twenty dollars to the party of the third part, and such sums of ten and twenty dollars shall not be regarded as in the nature of a fixed license fee, but as a part of the mutual considerations and payments upon which this contract is based. The second and third parties shall each keep correct and full accounts of all their manufactures and sales of said inventions, and shall furnish each other with written and sworn statements of such accounts every six months, viz., on the first days of January and July, or within ten days thereafter, and shall make prompt payment of all balances due under this contract.

3. The party of the third part shall not sell either of said patents nor any territorial or undivided interest therein, and such sales, if made, shall be utterly void; but if either the second or third party goes out of business, or changes corporate or firm name, or merges themselves with other parties in their business, then the patents and all the rights and obligations under this contract shall go to such successor of such original party, and such successor shall stand under this contract the same as if he had been the original party to the contract, his rights and obligations to go in turn to his successors in the same way.

4. The party of the third part shall bear all the cost and expense

of procuring the Gray patent, and this contract shall not take effect as a contract until such Gray patent is issued by the United States Patent Office.

A. HAHL.
HAHL, GIBBON & CO.
[SEAL.] THE WESTERN ELECTRIC MANUFACTURING CO.,
By ANSON STAGER, *Pres't.*

ENOS. M. BARTON, *Sec'y.*

50 And afterwards, to wit, on the 12th day of February, A. D. 1886, the following exhibit was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

EXHIBIT WESTERN ELECTRIC M'F'G CO. AGREEMENT. F. H. M., S. E.

COMPLAINANT'S EXHIBIT WESTERN ELECTRIC M'F'G CO. AGREEMENT. F. H. M., S. E.

Articles of agreement, made and entered into this first day of August, A. D. 1882, by and between the Western Electric Manufacturing Company, a corporation of Chicago, Illinois, party of the first part, and the Western Electric Company, a corporation of the same place, party of the second part, witness:

Whereas party of the first part is the owner of letters patent No. 148,447, granted Augustus Hahl March 10, 1874, for improvement in electric indicators for elevators, and letters patent No. 172,993, granted Elisha Gray, assignor, February 1, 1876, for improvement in electric annunciators for elevators, and is entitled to all profits and damages which have accrued by reason of the infringement of others of said patents or either of them; and

Whereas party of the second part is desirous of obtaining said patents and all damages and rights of action which have accrued or become due to party of the first part by reason of the infringement or infringements of any third party or parties of said patents:

Now, therefore, the parties hereto covenant and agree as follows:

Party of the first part, in consideration of one dollar and the covenants hereinafter expressed, hereby sells and assigns to party of the second part the whole right, title, and interest in and to said patents, and all profits, damages, and causes of action which have accrued or arisen by reason of the infringement or infringements of any third party or parties heretofore of said patents or either of them.

Party of the second part hereby covenants and agrees, in consideration of the premises, that it will at all times hereafter faithfully carry out the contract heretofore executed between Hahl, Gibbon & Co., Augustus Hahl, and party of the first part with respect to said patents, and at all times save party of the first part harmless from all claims growing out of said contract.

Signed, sealed, and delivered by the parties hereto as of the day and year first above written.

[SEAL.] WESTERN ELECTRIC M'F'G CO.,
By E. M. BARTON, *Vice-President.*

[SEAL.] WESTERN ELECTRIC COMPANY,
By E. M. BARTON, *Vice-President.*

51 And afterwards, to wit, on the 23rd day of February, A. D. 1886, the following motion was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Motion.

United States Circuit Court, Southern District of Ohio, W. D.

WESTERN ELECTRIC CO. *vs.* HENRY J. REEDY. } In Equity. No. 3709.

Now comes the defendant and moves to suppress the depositions of Frederick D. Schopper, John Young, and Enos M. Barton, or some of them—

1. Because taken without notice and in the absence of the defendant and his counsel.
2. Because their names were not given in any notice served.
3. Because the persons certifying and filing the depositions were not authorized to take them.
4. Because no witness was examined on the day named in the notice annexed to the depositions of Young & Barton and no consent given to an adjournment.

WOOD AND BOYD,
Sol'rs, of C'l for Defendant.

52 And afterwards, to wit, on the 8th day of October, A. D. 1886, an entry was made upon the journal of said court in this cause clothed in the words and figures following, to wit:

Journal W, 491.

No. 3709.

This cause came on for final hearing and was submitted to the court upon the pleadings, proofs, and arguments of counsel; upon cosideration whereof, the court being of opinion that the complainant has a plain, adequate, and complete remedy at law, and that therefore this suit should not be sustained, it is ordered, adjudged, and decreed, without passing upon the question of the validity of the patent in the bill set up, that the bill be, and it is hereby, dismissed at the costs of the complainant.

And afterwards, to wit, on the 6th day of Nov., A. D. 1886, an entry was made upon the journal of said court in this cause clothed in the words and figures following, to wit:

Journal W, 525.

No. 3709.

And now comes the complainant herein and in open court prays an appeal to the Supreme Court; whereupon the same is allowed and the amount of the bond is fixed at five hundred dollars ($500.00).

And afterwards, to wit, on the 6th day of December, A. D. 1886, the following appeal bond was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Appeal Bond.

Circuit Court of the United States, Southern District of Ohio, W. D.

53 WESTERN ELECTRIC CO.
vs.
HENRY J. REEDY.

Know all men by these presents that we, Western Electric Company, a corporation, as principal, and Geo. N. Stone and A. D. Bullock, as sureties, are held and firmly bound unto Henry J. Reedy in the sum of five hundred dollars, to be paid to the said Henry J. Reedy, his executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals. Dated this 2 day of December, 1886.

Whereas the above-named Western Electric Company, a corporation, has taken out an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled action by the circuit court of the United States for the southern district of Ohio:

Now, therefore, the condition of this obligation is such that if the above-named Western Electric Company, a corporation, shall prosecute its said appeal to effect and answer all damage costs if it shall fail to make good its plea, then this obligation to be void; otherwise in full force and virtue.

GEO. N. STONE. [SEAL.]
A. D. BULLOCK. [SEAL.]

54 Sealed and delivered in presence of—
W. A. BLANCHARD.
R. T. McCOMAS, JR.

The above security is approved.

GEO. R. SAGE,
District Judge of United States, S. D. Ohio.

THE UNITED STATES OF AMERICA, } ss:
Southern District of Ohio, Western Division, }

I, Benjamin R. Cowen, clerk of the circuit court of the United

States within and for the district and division aforesaid, do hereby certify that the foregoing is a true and complete transcript of the proceedings had by and before said court in the said entitled cause, including the depositions and exhibits, as the same appears of record and on file in said court.

Seal of the Circuit Court, South'n Dist. of Ohio.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at the city of Cincinnati, O., this 7th day of May, A. D. 1887.

B. R. COWEN, *Clerk*,
By R. C. GEORGI, *Deputy*.

Endorsed on cover: S. Ohio C. C. U. S. No. 348. The Western Electric Company, appellant, *vs.* Henry J. Reedy. Filed July 9, 1887.